

Ms Margaret Quirk; Dr Tony Buti; Mr David Templeman; Ms Andrea Mitchell; Mr Andrew Waddell; Mr Tony O’Gorman; Mr Chris Tallentire; Mr Tony Krsticevic; Mr Peter Watson; Ms Rita Saffioti; Mr Peter Abetz; Dr Mike Nahan; Mr Joe Francis; Mr Bill Johnston

RETIREMENT VILLAGES AMENDMENT BILL 2012

Second Reading

Resumed from 18 October.

MS M.M. QUIRK (Girrawheen) [4.06 pm]: Before I commence my comments on the Retirement Villages Amendment Bill 2012, I acknowledge in the gallery Patrick Wyburn, who is a past president of the Western Australian Retirement Complexes Residents Association, and the current president, Des Cousins. I also acknowledge the wise counsel that they gave me on this bill.

The ageing demographics of Western Australia are such that more and more people will choose to live in retirement villages. By 2050, the proportion of the population aged 60 years or over will increase from 17.3 per cent in 2010 to a little over 27 per cent. That means that more than one in four Western Australians will be aged over 60. Of course, as we focus on maintaining health and wellbeing, many of these people will live much longer, so there will be a greater number of elderly seniors.

It is important that those who make the choice to live in a retirement village have peace of mind and security knowing that there are certain legal protections in place. This bill goes part of the way to achieving that, and for that reason it is supported by the opposition. I note that the bill deals with only some of the recommendations of the “Statutory Review of the Retirement Villages Legislation: Final Report”. It is my sincere hope that the remainder of the recommendations be addressed without undue delay. I suspect that those not addressed were most contentious for the industry and therefore have not been addressed. That is simply not an excuse for this delay given that the review was completed in 2010.

The major issue I have with this bill relates to village management. I am pleased that there is a prohibition on certain persons acting in the administration of the village—a kind of fit-and-proper-person test. However, I am concerned that persons can be exempted from this requirement by the commissioner. I can simply find no credible explanation for doing this. It is essential that those people charged with managing villages have the highest of integrity—no ifs or maybes. I have to say that to me it would be a brave commissioner who would issue such an exemption because they would then be, frankly, exposed to criticism if there was subsequent maladministration or malpractice by that manager the commissioner chose to exempt. Therefore, I find that whole provision somewhat curious. If it is about existing administration that may fail the test, there is a way of dealing with that through transitional provisions. I have concerns and I suspect we may need that explained in greater detail at the consideration in detail stage.

The next issue is the appointment of a statutory manager when the wellbeing or financial interests of the residents are considered to be at risk. This is a sensible added protection for when operators become insolvent and their businesses are placed under administration.

The third area addressed in the bill relates to the contracts to go into one of these villages. They are complex. In the case of my parents, I was handed something about the size of the *Yellow Pages*. I am certainly not familiar with that area of law, so I do not express any expertise. Even so, it would be very complex for a layperson to understand. Even if, say, a local commercial solicitor had some level of expertise, these contracts do not tend to be standardised. I believe that issue should be looked at in the next bill. This bill acknowledges that there is a level of complexity and allows for the extension of time for consideration and the rescission of contracts. I think that is a very good idea. But, as I said, I hope that down the track there will be moves for standardisation of retirement village contracts, such as occurs in New South Wales.

The bill also provides for appeal to the State Administrative Tribunal against excessive or unwarranted increases in recurrent charges. On the face of it, that seems to be an excellent idea. However, I suspect that that will not be used very often, mainly because the requirements to get a matter to SAT are onerous and, I think, will inhibit some residents from taking that option. Under the legislation, there is the requirement for a special resolution of 75 per cent of the vote of residents, which, given that this meeting is convened by the very management that is imposing the excessive charges, is unworkable and, as I said, inhibiting. It seems to me that residents should have the power to call meetings and that any resolution could be passed by a simple majority.

Under this bill, SAT is also conferred with the power to make orders about disputes involving the provision of services that were promised and were either not provided or significantly delayed. Numerous examples of this came up during the course of the inquiry into the Karrinyup Lakes Lifestyle Village. I need not repeat those issues, but I think it is clear that people were induced to make a substantial commitment on the representations of

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the village administration and they expected that certain facilities and services would be there, only to find that they were not. This bill will enable application to SAT. That is a very welcome provision.

I also note that, although there is provision for prescription in regulation as to the fees that can and cannot be charged within the village operating budget, these regulations have not been drafted. I think that is a deficiency in the legislation. That should have been contained in the substantive legislation. I believe things such as depreciation on buildings, professional association fees and expenditures relating to the accreditation process should not be included in the operating budget. But we are agreeing with this legislation without seeing those regulations. We are taking on good faith the fact that the regulations will provide sensible parameters for village operating fees.

One of the really live issues in this legislation relates to recurrent charges after a resident leaves a village. I understand that the bill will impose limitations on the time that these charges can be levied once a resident has left the village. This will be limited, as I understand it, to three months for future contracts and six months for existing contracts. Again, to use the experience of my parents, they live next door to a unit that has been empty for about 10 months, so that is quite an impost on the family of the person who has left the unit. The inclusion of a definition of “permanently vacated” by way of amendment in the upper house is good because it adds further clarity about when the set time limits will operate from. I am confident that that will certainly clarify some of the ambiguity that surrounds this issue. In the case of my parents’ village, I do not think the bill had even passed through the upper house before its management sent advice to all the residents about what the passage of this bill would mean. Interestingly, it was incorrect on this issue, but I am sure that something will be remedied in due course.

Implicit in the opposition’s support of this bill is that another bill dealing with the remaining statutory review recommendations will follow closely behind it. It is our fervent hope that once Parliament resumes next year, this second bill will be treated with expedition.

The most pressing issue that still needs to be resolved relates to reserve funds. It is argued that moneys raised in a village should remain in the village and that each village should have a mandatory reserve fund.

In conclusion, weighing up housing choices and options, especially with the lack of rental accommodation and the high cost of housing, is difficult at any age but it is more so for seniors, many of whom may not have had to deal with such issues for many years. I take this opportunity to digress slightly to commend the work done by the Western Australian Council on the Ageing through its Seniors’ Housing Centre advisory service and also the parallel service set up by the Department of Commerce. I understand that both services are very much in demand and the government may like to consider providing greater resources to these services, including additional legal advice capability and outreach capacity to regional areas. I give both those services a commendation for the excellent work that they are doing. It is much needed.

As I noted at the outset, the profile of our housing needs will change markedly in the coming decades because of our ageing population. We need to adapt this demographic inevitability and make housing transitions from a regulatory perspective as smooth as possible, whilst at the same time creating valuable and important protections. At any age, moving house can be a stressful and emotional event. Also, moving into a retirement village often coincides with the passing of a spouse, yet this is the very time when an elderly person must compare one village with another and face the complexity of contracts and a range of issues relating to recurrent charges and maintenance, which are unfamiliar to many. I hope that this bill assists residents of retirement villages and that it goes some way to assuage their current concerns. I hope I will be around to speak on the second bill when it is brought into Parliament.

DR A.D. BUTI (Armadale) [4.18 pm]: I rise to provide some comment on the Retirement Villages Amendment Bill 2012. Mr Acting Speaker (Mr A.P. O’Gorman), you and the member for Mandurah have been advocating the need for major reform in the area of retirement villages.

Mr A. Krsticevic interjected.

Dr A.D. BUTI: We will see about that. I am sure that the member for Carine will make a contribution, because he of course has issues with retirement villages in his electorate.

The advocacy provided by the member for Mandurah and the member for Joondalup has been incredibly impressive. They advocated day after day, and I could say year after year, because it seemed to take years for this government to take any action. But it is good that we now have the bill before us, and we are generally quite supportive of this bill.

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As was mentioned by the member for Girrawheen, much of the bill—it has been flagged by the government that another bill will come into the house to address other issues—deals with management issues, which, of course, are incredibly important. As was revealed by members in previous debates, in some cases the management of retirement villages leaves a lot to be desired. This is a real problem, because retirement villages are an incredibly important, and increasingly important, part of the accommodation landscape of Western Australia. As our population ages, more and more people are making life choice decisions to live in retirement villages for a number of reasons, so it is incredibly important that governments do not abrogate their responsibility to have a supervisory role in regard to retirement villages. One would hope that this legislation that is before the house will provide the corporate governance structure to ensure that there is proper protection in the adequate management of retirement villages.

The bill deals with a number of areas, but one of the main areas, as I have stated, is the whole issue of the management or the administrative structure of retirement villages. Of course, with any structure that we may have in place, probably the most important thing is to ensure that we have the right people doing the managing. It is good to see that this legislation prevents certain people from qualifying to be managers of retirement villages, because there can be nothing worse than a person making a life choice to move into a retirement village and to live the latter part of their life, or a certain part of their life, there—people in retirement villages may not stay there the whole time, and I will get on to that issue later—and for that retirement village to be administered and managed by a person who does not have the qualifications, the capabilities or the good character to manage such an enterprise. It is comforting that the bill provides provisions that prohibit certain persons from administering or managing retirement villages, whether directly or indirectly. For example, the second reading speech mentions that part 2D.6 of the Corporations Act comes into play because that part of the Corporations Act deals with the whole issue of the disqualification of people from managing corporations.

I want to take a bit of time to look at that part of the Corporations Act because it is incredibly important in the overall scheme of the legislation that is before us. Section 206A of the Corporations Act states —

A person who is disqualified from managing corporations under this Part commits an offence if:

- (a) they make, or participate in making, decisions that affect the whole, or a substantial part, of the business of the corporation; or
- (b) they exercise the capacity to affect significantly the corporation’s financial standing; or
- (c) they communicate instructions or wishes (other than advice given by the person in the proper performance of functions attaching to the person’s professional capacity or their business relationship with the directors or the corporation) to the directors of the corporation:
 - (i) knowing that the directors are accustomed to act in accordance with the person’s instructions or wishes; or
 - (ii) intending that the directors will act in accordance with those instructions or wishes.

Under section 1274AA of the act, there is a requirement to keep a record of persons who are disqualified from managing corporations, so it will become an important part of the actual scheme of this legislation that we keep a registered list—that can be done via the Corporations Act legislative scheme—of people who are disqualified from managing corporations, and retirement villages generally are corporations. It is an offence under the Corporations Act —

Mr J.M. Francis: Is that a national list?

Dr A.D. BUTI: That would be a national list, I would imagine, yes, but I think we will need to look at the replication of that list at the state level as far as the management is concerned, as a policy matter more than anything.

Of course, other people who are disqualified from managing corporations are people who have committed certain criminal offences. Under part 2D.6 of the Corporations Act, it is definitely an offence to manage a corporation if a person is disqualified from that position. It is a strict liability issue under the commonwealth Criminal Code and, I imagine, a strict liability provision under the Western Australian Criminal Code if it is applicable. So, it is good to see that we have in the proposed legislation before us an acknowledgement that some people should not be managing retirement villages. I think that is an acknowledgement that was advocated by people such as the member for Mandurah and the member for Joondalup, and probably the member for Carine—I probably paid more attention to the speeches of the member for Mandurah and also the member for Joondalup because they were very long speeches, as the member might recall —

Mr A. Krsticevic: Yes, I do.

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Dr A.D. BUTI: But they made much sense. One of the issues, if I remember correctly, is that they mentioned, and I am sure the member for Carine also mentioned, that they had examples of people who were making life hell for residents of retirement villages. These people should have no say in the management of, and they should not be involved in, retirement villages, because, obviously, the Corporations Act recognises that some people, due to their previous activities and their lack of qualifications, or even criminal offences, should be banned and barred from managing corporations. For people who are over 55 years of age and who decide to live in a retirement village, no greater onus can be placed on governments, and the legal regime that Parliament decides on, than to ensure that it tries to prohibit unsavoury characters from involvement in the management schemes of retirement villages. Of course, legislation of itself cannot be guaranteed proof that that will take place, but we have to start from the first principle, being an acknowledgement, which was driven home in previous debates in this house, of the fact that there are unsavoury people in the industry and that we need to stamp out those unsavoury characters. We do that at first instance by having an appropriate legislative scheme, and thank goodness that at last, member for Mandurah, today we have this bill before us. I did wonder when it would come on for debate, and finally we have it before us.

The government has recognised the arguments that have been presented in previous debates on this issue. We now have this legislative scheme that will make it easier—it will not be foolproof—to prohibit unsavoury characters from involvement in the management structure of retirement villages. However, we cannot stop at the administrative–legal regime level; we have to then ensure that a proper regulatory system is in place. When we move into consideration in detail, I will be interested to see whether the amendments in the bill before us, the Retirement Villages Amendment Bill 2012, provide the appropriate supervisory and regulatory scheme that is needed to ensure that we can guarantee that unsavoury characters are not managing retirement villages anymore. For that to happen, of course, governments have to look at the appropriate resourcing of regulatory bodies. I notice in the Retirement Villages Amendment Bill that the State Administrative Tribunal will replace the administering body of the retirement village when there is evidence of serious mismanagement. Therefore, we could say that the government has appointed SAT to come into play in certain scenarios such as serious mismanagement, but we have to ensure that we try to prevent serious mismanagement taking place. I am interested to know where in the bill is an appropriate regulatory scheme to back up the admission by the government that there are unsavoury characters in the industry, as recognised by the fact that we will prohibit certain people from managing retirement villages.

The issue of fees is one of the other very important issues raised in debate before this bill came before the house and has been communicated to, I am sure, all members of this house in previous correspondence from the Western Australian Retirement Complexes Residents Association. The issue is the ability of retirement villages to impose ongoing charges on residents once they leave the village. Just imagine what that must be like. A person who lives in a retirement village, for whatever reason, decides that they want to leave that retirement village. It could be that they want to go to another retirement village or travel around Australia. Hopefully, if this person wants to travel, they will not be called up for jury duty because, as we know, amendments to the jury duty legislation that passed this house last year mean that they might be called for jury duty, which may upset their caravan travelling plans around Australia. This side of the house sought to amend those provisions, but we were unsuccessful. However, getting back to the point about the Retirement Villages Amendment Bill before us, imagine being a person who leaves a retirement village but is still subject to and liable for ongoing charges. That is an absurd situation for a number of reasons. Although a person does not live there anymore, charges are still imposed on them, yet they receive no benefit for the consideration that they give the retirement village corporation. People give the retirement village money, which can be quite substantial—\$300, \$400 or more. For people living on a pension scheme, that can be quite prohibitive. Generally, in a contractual scenario, people have this thing called consideration; namely, I give a company X amount for a service that it will provide. What service does the village provide once a person leaves? It provides no service to that person. Of course, this is an issue we need to look at.

It will be interesting to see whether this bill deals with other areas of the contractual matrix of the whole industry; whether the contracts themselves are harsh and unconscionable because, as we know, demand for places in retirement villages is increasing day by day as the population becomes older and other forms of accommodation become more expensive. Therefore, often people are forced into retirement villages. A lot of people want to go into retirement villages because it suits their way of life, but others maybe do not really want to go into a retirement village but do so for economic reasons. Once a person's ability to select where they want to go is decreased, they are more pressured into agreeing to a contract than they may be if that was not the situation. Of course, the retirement village management and the owners of retirement villages have the main bargaining chip because they have that retirement village accommodation for these people. Therefore, we need to look at whether these contracts are fair and reasonable and not harsh and unconscionable. If they are harsh and

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unconscionable, they can run afoul of consumer protection law in WA or the commonwealth trade practices act. These contracts could even amount, in some circumstances, to economic duress. The whole issue about a contract is that someone should enter into it of their own free will—their own volition. If someone does not enter into a contract of their own free will and volition, it is possible to strike down that contract. However, we do not want people who seek to enter a retirement village to commence litigation to get out of a contract. They do not want to spend their hard-earned dollars, their pension funds and retirement funds, on litigation. As a former lawyer, I say that the law is a very respected profession, but it has been known that sometimes lawyers may charge a premium to represent people. I know it is hard to believe that that is the case —

Mr A. Krsticevic: And they drag it out a little bit as well.

Dr A.D. BUTI: They could do that too, member for Carine.

Several members interjected.

Dr A.D. BUTI: We are not guilty free in that regard either—exactly right!

Mr J.M. Francis interjected.

Dr A.D. BUTI: This is right, member for Jandakot. As I said, it will be interesting in consideration —

[Member's time extended.]

Dr A.D. BUTI: The issue of fees is tackled in this proposed legislation, which is incredibly important because that is one of the major concerns, but I do not think that, from my initial reading of the bill, the whole issue about the possible harshness of contracts is tackled and what relief could be offered in a non-litigious manner. We could argue that an alternative dispute resolution model needs to be established for disputes in the industry. People who have retired to a retirement village do not want to go into a court system. No-one ever wants to go into a court system—not no-one; I should say a lot of people do not want to go into a court system. Lawyers do not mind —

Several members interjected.

Dr A.D. BUTI: Members would be surprised that many lawyers do not actually want to go into a court. Members would be very surprised at how a lot of lawyers stress out from going into a court, so they can imagine that people who have no experience —

Mr P.B. Watson: Especially accounting the money!

Dr A.D. BUTI: Yes, that is right; especially for someone who has no experience in the court system and in their elderly life is then thrust into the litigation system, it can be very frightening and, of course, very, very expensive. Therefore, we need to look at establishing an alternative dispute resolution model. Of course, SAT may have some role to play in that. It has some role to play in the proposed legislation, but not in the matter that I am addressing about disputes under the contract.

Mr A. Krsticevic: The legislation allows for regulations on the fees and charges that cannot be charged.

Dr A.D. BUTI: I thank the member for Carine and I understand that in regards to fees, but I am talking about the whole contractual scenario in that there might be other disputes about proper maintenance and so forth. The provisions about charges are an incredibly important part of the legislation.

The issue is that people are being charged once they leave the premises. It is absurd—absolutely absurd! But the other problem is that they are often charged until the unit is sold. So, where is the incentive for the village operators to ensure that that unit has a new owner? There is no absolute motivation; in some respects, it is easier to leave the unit vacant, because the village operators may not need to upkeep it as much. However, granted—I see that the member for Jandakot is shaking his head—I agree that often the operators want the unit to be occupied because of the vibrancy of the whole village system et cetera.

Mr J.M. Francis: If you had a village that had a large percentage of the units empty, you're going to kill the communal life of the village.

Dr A.D. BUTI: That is exactly right.

Mr J.M. Francis: Also, a lot of these contracts, when people enter into them, if the people vacate the unit and move on for whatever reason and it is left empty, then, say, that unit was purchased for \$500 000, some of the village operators will retain 30 per cent of the sale price as part of the contract—that is, for 20 per cent or whatever it is—so they have a substantial amount of money tied up in an empty unit as well.

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Dr A.D. BUTI: Granting the comments made by the member for Jandakot, the fact is, though, the requirement to meet ongoing charges can be a market disincentive to find an early replacement. That is another reason why the bill has addressed the issue of ongoing charges. The issue of ongoing charges is one of the most fundamental issues that need to be addressed. It is good to see that being addressed in this bill, because it is ridiculous for people to have ongoing charges when they are not living in the village anymore. As I said, it can also act as a disincentive to —

Mr A. Krsticevic: The balance there is that the owners of the village are not brokers. If someone chooses to leave for whatever reason or because they don’t want to be there, they then need to bear the cost if there isn’t that sort of balance between the non-owner and the owner. So it’s about making sure, because otherwise the costs would just be put up-front.

Dr A.D. BUTI: Yes. This is the issue about reasonable notice and so forth. In many contractual scenarios people have a set period of time within which they have to pay the fees or charges and they are then able to leave with reasonable notice. Granted it is not all one way, but in any contract there are mutual obligations. I think “mutual obligations” was a favourite term of the former Prime Minister.

Mr A. Krsticevic: And I think some good operators will tell you that to get rid of a unit, it takes about six months on the market.

Mr J.M. Francis: But you could also argue that if somebody had been in a unit for 15 years and they’d moved on, that unit would then need new carpet and new paint.

Dr A.D. BUTI: Yes.

Mr J.M. Francis: It may need new appliances before it’s then ready for market, but that shouldn’t take three months. Anyone can get that done within a reasonable time.

Dr A.D. BUTI: Yes. I think we need to work on a similar system to the system in the private rental market where the incentive is for the real estate agent to get a new tenant as soon as possible so that it creates a revenue stream. If the revenue stream in the village is coming in, that can be a disincentive to the obligation for finding a new tenant, although I grant the comments made by the member.

I have only a couple of more comments to make. Of course the opposition supports the bill. As we go through the consideration in detail stage, it will be interesting to look at the actual detail of the bill. However, the bill does address some of the pressing concerns that have been mentioned in previous debates before this house. It also addresses some of the issues that have been raised in correspondence to members from industry spokespeople, particularly members of the retirement association. Let us hope this bill is the catalyst for the second bill to come on sooner than the time this bill has taken to come before this house. This issue is becoming more and more important as more and more people enter the retirement villages market.

MR D.A. TEMPLEMAN (Mandurah) [4.42 pm]: The Retirement Villages Amendment Bill is very important amendment legislation that we are presenting to the Parliament today. It has a long history in being brought to this place. As members are aware, over two years ago there was a major statutory review of the Retirement Villages Act. A very extensive process took place that sought feedback and information from various stakeholders on the adequacy of the current legislation, and indeed on the need for some important and significant reforms. That process, as we know, culminated in the release of the final report of the statutory review of the retirement villages legislation in late 2010—I think in November. The opposition in that year highlighted to Parliament, and particularly to the government, the importance of progressing to Parliament relevant amendments because we—indeed all members I am sure, particularly those with a significant number of constituents living in retirement villages—were reporting a range of concerns. The backdrop, of course, was what we saw at Kingsway in the member for Carine’s electorate.

Mr A. Krsticevic: Karrinyup Lakes Lifestyle Village.

Mr D.A. TEMPLEMAN: I am sorry; Karrinyup Lakes, yes. I want to put on record the importance of the advocacy of the former member for Carine, Katie Hodson-Thomas, who raised in this place while she was the member the growing concerns that had appeared in that particular retirement village. She should be acknowledged and applauded for the work she did as the member for Carine back then in bringing to Parliament the concerns of those residents. Let us remember that after the election in 2008, this opposition—indeed through you, Mr Acting Speaker (Mr A.P. O’Gorman), as the member for Joondalup—raised the matter in a private member’s motion. We reminded the current government of the importance of progressing the amendments to this legislation. In fact, we raised it in October 2010. I think a year later in 2011, which was nearly a full year after the release of the final report, we reminded Parliament, again through a private member’s motion, that we

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believed the government needed to get those amendments into this place. I must be honest and say that I was concerned at the beginning of the year that we would not see these amendments in this parliamentary year, and I had grave concerns that we would see the proroguing of this Parliament without seeing these amendments before the house. I am pleased that pressure was put on the minister by members of the opposition. I think also some members of the government put pressure on the minister. Some great work was done by the peak body—that is, the residents’ representative body, the Western Australian Retirement Complexes Residents Association—and by individual residents of retirement villages, and indeed representatives of specific retirement villages. A lot of important lobbying was done.

I want to pay tribute to Patrick Wyburn, who is in the public gallery today; to his wife, Shirley; to Mr Cousins; and to others who are part of WARCRA. Their aim has always been to work with government to get up these amendments. They and all of us recognise that retirement villages will provide homes for an increasing number of Western Australians. The minister himself in the second reading speech acknowledged that within a few decades one in four Western Australians will be aged 65 years or older. Bear in mind that a lot of retirement villages and indeed some lifestyle villages, as they style themselves, are targeting even younger members of our community—some at 45 years of age. What we do know is that retirement village life and retirement village living will be an increasingly popular and important accommodation model for Western Australians into the future. We in Western Australia, therefore, should aim to have the best and leading legislation that governs these retirement village models. We should be aiming to have the best legislation and to be leading the way because, it is true to say, our legislation has not necessarily kept up with the progress of legislation in other states in Australia. As has been highlighted by previous speakers, there are some key concerns that I think this amendment bill goes some way to addressing. It is true that organisations such as the WA Retirement Complexes Residents Association are generally very pleased with the proposals in this Retirement Villages Amendment Bill that they recommended, with the caution that a number of key concerns relate to future regulation. Whichever government is formed in March next year will need to be committed to ensuring that those regulations that have been promised are delivered. I am speaking, for example, about the capping of costs for people who leave a retirement village. As the member for Girrawheen quite rightly said, the intention in the minister’s second reading speech is that that will be delivered through regulation. But we want to make sure we commit to that. Certainly if the Labor Party forms government, that will indeed be committed to. I am sure the same will occur if the present government is returned.

I want to highlight to members that, as they know, a very large number of residents live in retirement villages in Mandurah and Peel. There are nearly a dozen retirement villages in my electorate. In the City of Mandurah there are more than a dozen and in the Peel a significant number of residents call retirement complexes home.

Mr J.M. Francis: You probably have more than any other electorate.

Mr D.A. TEMPLEMAN: I think I do. I think I totalled up that more than 3 000 of my constituents live in retirement villages.

I have to highlight to the house that, by and large, retirement village living has evolved over the past couple of decades. As we have seen in a couple of examples, retirement villages can be very well run complexes that deliver fantastic lifestyles for residents. But when something goes horribly wrong, the importance of legislation is critical. I have to say that in one or two examples, even in my electorate, things could have gone horribly wrong had it not been for a couple of key matters. One village in my electorate in particular went into receivership and administration. I want to pay credit particularly to the residents who put up their hands to be on the residents’ committee. I have told them—a good friend of mine, David Street, and others in one particular village—that had it not been for the expertise, energy and sheer dedication that people such as David Street brought to that village at that time and their willingness to analyse the financial threats, some very vulnerable people’s homes could have been put at grave risk. Fortunately, a new buyer was found for that village and issues have been worked through. I want to give credit to the men and women—not in just the village I have spoken about—throughout Western Australia —

Ms M.M. Quirk: Hear, hear!

Mr D.A. TEMPLEMAN: — who have basically retired in the village and do not need to put in the time and energy; there is no onus on them but they do it because usually they have some experience, some professional background or some deep interest in ensuring that not only their interests but also those of the residents who live there are represented effectively. They play a very important role. As I said, had it not been for the dedication of people such as David Street and others at one village in my electorate, things could have turned pretty sad. I take my hat off to them. That is true of many villages throughout Western Australia. I think it means that people who put themselves forward to serve on committees deserve support and, indeed, many of them have followed very

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closely the progress of the statutory review to where we are today with the amendments we are debating through the bill before the house.

As has been already cited, a number of the key concerns have been initially addressed in these amendments. As has also been highlighted, we acknowledge that a second bill is to come before Parliament, and needs to be introduced with some urgency next year to address matters that are not contained in this bill.

The WA Retirement Complexes Residents Association is an organisation that, as I said, has been working as a key stakeholder with the minister. I have met with Patrick, Mr Cousins and others on a number of occasions in the past couple of years, as have other members. WARCRA has been involved in a lot of the consultation with both the Department of Commerce, which oversees the compliance of this bill, and the minister himself. I want to again congratulate the current and past presidents and current and past committees of WARCRA for the tremendously positive way they have worked with government and opposition to get the best possible outcomes in this process. Without that willingness and genuine commitment to get quality amendments, I do not think we would have got the outcomes we now have in front of us. That said, there is obviously some urgency in passing this bill. As I think I said during debate on a motion nearly a year ago, the opposition will work to ensure that this bill passes quickly. I can assure the parliamentary secretary that we will pass it in the house tonight. We have a few questions to ask in consideration in detail. We want this to be law as soon as possible. I think it is very important that the Department of Commerce, which has responsibility for retirement villages, informs residents once this legislation is passed about what the amendments mean, how they will be rolled out and what the time lines are. I know that the Western Australian Retirement Complexes Residents Association will play a key role anyway in terms of informing its membership, which is very big. It has very strong representation.

[Member’s time extended.]

Mr D.A. TEMPLEMAN: I attended a WARCRA meeting in February this year at Lady Brand Lifestyle Village in Mandurah. It was chaired by Patrick, when he was president. Representatives from both sides of politics were present at that meeting. A couple of hundred residents and members of residents’ committees were in attendance from everywhere in the Peel, including the Royal Australian Air Force Association at Meadow Springs, Settlers Lakeside Village in Ravenswood, which are in the member for Dawesville’s electorate, and of course many villages that I represent in Meadow Springs and Lakelands, including Belswan, Lady Brand and St Ives. There was a lot of representation. A lot of questions were asked and a lot of issues and concerns were raised. The key concerns are highlighted in the proposed amendments, which we will support today.

I will quickly mention some of the key concerns, from my perspective, that were highlighted. The member for Armadale highlighted some of these in his contribution to the second reading debate. Concerns included the village management aspect and the proposal to prohibit certain persons from acting in the administration of a retirement village, which will bring some comfort to residents. As WARCRA has highlighted on a number of occasions, residents do not have any choice in the appointment of such persons. WARCRA prefers there to be no exemptions to this provision. As the second reading speech explains, the bill contains a provision enabling the appointment of a statutory manager. Disclosure and cooling-off periods are also important. WARCRA hopes that subsequent amendments will address the structure of contracts to ensure some degree of standardisation to ensure contracts are more comprehensible and more easily compared. That is important. We are currently reviewing the Residential Parks (Long-stay Tenants) Act. I addressed a meeting at the Mandurah Gardens Estate only two weeks ago. Over 150 people were there from that particular area. That complex is governed by the long-stay tenants act. I advised those residents to know their contracts. I said, “Go home tonight, get your contract out, know what it says and know what it means. Refresh your knowledge of your contract.” WARCRA makes some very good comments about this amending bill to the Retirement Villages Act, and highlights the issue of subsequent amendments to address the structure of contracts.

The appeal process through the State Administrative Tribunal is highlighted. I will read WARCRA’s view of the proposed amendments related to that. WARCRA makes the comment —

The requirement for “special resolution” of residents (necessitating the involvement of the management body against whom the appeal is directed and a larger majority) to lodge such an appeal is, we think, an inhibiting (and potentially divisive) factor that may deter residents from seeking this relief. We would have preferred residents to be able to call the general meeting and that a simple majority vote would be sufficient to lodge the appeal with the SAT.

A few comments have been made about the SAT process outlined in the amendment bill. That is an important matter to keep in consideration.

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Another aspect that was also mentioned by the member for Armadale—I know the member for Perth, as the lead speaker, spoke about this late last week—is the issue of fees and charges, and the recurrent charges after a non-owner resident leaves a village. This critical component of concern has been raised by many people who live, or have lived, in retirement villages but find, for whatever reason, they need to leave the village. We need to be well aware that people quite often go into retirement villages in very good health, but as they age and as life deals them the roll of the dice, they may be in a village for many years or a couple of months, and then unfortunately their circumstances—usually related to health—change, and can change rapidly. Care needs change with it. Examples have been provided to me by people in various villages in Mandurah of someone’s loved one passing away or becoming unwell. Subsequently, their care needs are assessed as high and they can no longer live in their current circumstances. Their needs change rapidly. One month they might be well and the next month their health has deteriorated rapidly. That person, or their family, has to assess their needs. Usually they have been assessed by the aged-care assessment team. Accommodation needs change rapidly. As the member for Armadale and others mentioned, that change quite often means leaving the retirement village that they may have intended to spend a lot more years in. This amendment highlights the capping of six months for existing contracts and three months for future contracts. That is to be applauded. The second reading speech states they will be prescribed by regulations—regulations that have yet to be drafted. I urge the government and the Minister for Commerce to make sure this element is a priority. It is a recurring issue for people time and again.

I congratulate the Minister for Commerce on getting this amendment bill to Parliament. It has been a long time coming. We were critical of the time it took. Quite frankly, this bill and the proposed amendments are crucial if we want the best legislation in Australia governing retirement villages into the future. We want to ensure that people who choose retirement village living for their accommodation needs are confident their interests are catered for effectively and efficiently, and that they understand what they are signing up to; that is, what it means financially and what it means in future costs and needs. When assessing accommodation needs in the future, it ensures that people will have a very transparent suite of options in front of them.

As I said at the beginning, when we know that in a few short decades one in four people walking in the street in Western Australia will be aged 65 and over, it is critical we have in place the best possible legislation to oversee their interests. I finish by again congratulating people like Patrick, Shirley and others who we are very fortunate to have as advocates for residents living in retirement villages and complexes. Can we all as members of Parliament, whether we have one retirement village in our electorate or 12, as I said I have, respect and support those people who put themselves forward to serve on residents’ committees, to serve as that important link between management and the residents themselves who give their time, energy and expertise and quite often their own personal financial expense to do that job? We need to assist them to do the important job they do and the important role they will have to play in the future.

I commend these amendments to the house and look forward to seeing them passed tonight so they can become law. Then the department and the minister will need to work to ensure that people who live in retirement villages understand what this means for them in terms of their protection and the protection of their interests.

MS A.R. MITCHELL (Kingsley) [5.10 pm]: I rise to support the Retirement Villages Amendment Bill 2012. I will speak only briefly because it is important legislation that we want to see passed. It certainly benefits a number of residents in my electorate. I also want to acknowledge the wonderful support and information and valuable insight that I have received from members of my electorate who take on wrongs within their retirement villages through the residents’ associations. I must commend them because they have followed this legislation diligently over the past few years. They meet with me regularly. They make comment on it and they understand what they are talking about. They have experience. As the member for Mandurah has indicated previously, many of these people come from professional backgrounds. They know what they are doing and they are able to support and help many of the other residents in retirement villages who do not have that expertise. They have certainly provided me with valuable insight into the operations of retirement villages and the different ways that they operate. I have certainly appreciated that. The members of the residents’ associations of Corinthian Court, Timberside Villas, Kingsley Lakeside Village, Meath Homes and Kingsley Retirement Village have followed the development of this legislation; they have met with me and I have a very good relationship with them.

As has been said, the decision to move into a retirement village is not necessarily always easy. Sometimes it is done with the right intent but the process can become very unpleasant. Sometimes people do not want it to happen. There is no doubt that 99 per cent of people do not read the fine print of documents; that applies not just to people going into retirement villages but probably to everything we do. Given the variety of situations that can occur even in one retirement village, we need to do what we can to protect people as much as possible.

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The decision to move into a retirement village is difficult and emotional; for many people, it is an acknowledgement that it is probably the last move they will make. That can be quite difficult because they realise that they are getting to the end of their life. It is an admission that they are getting older. They do not necessarily want to accept that. These are the sorts of things that are often going on in people’s minds as they move into a retirement village. Sometimes that is why people’s understanding of what they are going into is not always clear. Fortunately within the villages in my electorate, we have had very little experience of poor management problems. I am very grateful for that. A number of villages have certainly gone through different management companies or different owners and there have been variations as a result of that so that different residents are on different contracts and they are operating differently. As I said, we have not experienced the significant issues of poor management that have occurred in other locations. I am pleased to see that the inclusion of amendments in clause 16 will help support many of the residents should those situations ever occur.

For me and my residents, the most important aspect of this legislation is the payment of recurrent fees. That issue comes up time and again. There was great concern at one stage when it looked like we could produce legislation that would protect new people coming into retirement villages but could not do much for those who were already there. I want to thank the minister for listening to us and ensuring that that issue of paying recurrent fees for people with current contracts was taken into consideration and acted on. The amendments in clause 11 are very, very important to many people. We have all heard of them. We all know about them. There are many stories and situations. There are so many unhappy residents because of the situation of the recurrent fees that must be paid. As I said, I want to congratulate the minister. The recommendation of a three-month limit for new contracts and a six-month limit for existing contracts is fair. My residents accept that situation and believe that that is appropriate. The most important thing for them is the inclusion of a finite term. That finite term for existing contracts is the most important thing for my residents. Only yesterday I met with a group of seniors, one of whom lives in a retirement village. She said publicly and then quietly to me afterwards, “Thank you, thank you, thank you. It’s so important to the people in my village and it will make such a difference to them.” These people have been very strong advocates of fixed terms. They also knew that they just could not be excluded. I am confident that this matter will provide great relief and much comfort to the many residents of retirement villages not only in my electorate but also throughout the state. I certainly thank the minister for the work that he has done in this area.

MR A.J. WADDELL (Forrestfield) [5.16 pm]: It is difficult to talk about retirement villages without thinking of the total mix of housing that is provided to our ageing population. We need to think of it in three elements: retirement villages, which is the subject of the legislation before us today; nursing homes; and residential park long-stay tenants. The residents of my electorate are fairly evenly divided between those three when it comes to where they tend to live out their twilight years, apart from those who live in a family home.

Unfortunately, the Retirement Villages Amendment Bill 2012 before us only goes a short distance to resolving some of the issues that already exist within the Retirement Villages Act. It has been acknowledged that further tranches of legislation will come before the house in time. It seems disappointing that the statutory review into the retirement villages legislation came down in 2010 and here we are at the end of 2012 finally enacting only a small portion of those recommendations. At the same time, we have not dealt at all with the issues around the residential park long-stay tenants who have very significant issues because matters relating to retirement villages have been legislated and dealt with over a far longer period than the emergence of the lifestyle villages and so forth that exist again throughout my electorate, and I presume through others.

The other issue that I spoke of was nursing homes and the universally acknowledged fact that there are not enough. There are not enough places. Having recently seen my mother try to place her husband into care as a result of dementia was quite an eye-opening experience. I have recently been inundated with a number of constituents who have raised this very issue with me, particularly the lack of nursing home care within the eastern corridor of the Shire of Kalamunda. I will save my comments about that for a more relevant bill. I think it is important that when we think about these things, we think about them in association with each other because it is part of a general mixture.

I think this legislation before us today is welcome. There is no doubt it goes some way to addressing some problems. I know that since being elected in 2008 I have developed a very good relationship with the people in the two retirement villages within my electorate and I work very closely with a number of people at Walridge Village, who are quite involved with the Western Australia Retirement Complexes Residents Association as well. They raised a number of the issues back in 2008, prior to the statutory review coming down in 2010, which hopefully we will address when we pass this legislation today. I recall quite clearly at that time how they were very concerned about the idea of any person being able to be involved in village management. Without going into details, they were able to tell me stories, not necessarily occurring at that location, about village

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management that had gone bad. We have heard in previous debates in this house examples of some of the practices, which most of us would recall. We need to appreciate the fact that a lot of people who find themselves passing their twilight years in a retirement village do not necessarily have the robustness that we in this chamber demonstrate, and they can find themselves in a weakened position in which it is very easy to be bullied. We also need to remember that a retirement village is a microcosm; it is a very small environment in and of itself and it is a community in and of itself. If a person is bullied within that community, it is like their entire world can come crashing down around them. Therefore, the idea that we start to prohibit certain persons acting in the administration of a retirement village is an excellent one. I see two difficulties with the associated clause, one being, of course, the ability of somebody to obtain an exemption from the commission. We have to ask ourselves why that provision is there and I look forward to an explanation later on, perhaps in the parliamentary secretary’s reply, for why the government has seen fit to put those exemptions into legislation. If we were dealing with working with children legislation, there is pretty much no doubt that we would not put exemptions in the legislation. If there was a question mark over a person, we would simply err on the side of caution and not allow somebody with a question mark over them or who has done something that is prohibited to front up to a commissioner and say, “Hey, I’ll do good now; I’ll be okay. There won’t be a problem.” We would simply draw that line in the sand and say that we will not take that chance. We should be equally cautious in relation to our citizens in retirement villages.

The other problem I have is that in the bill there is a list of items that would disqualify a person from the administration of a retirement village, which are by and large very sensible things—people involved in violence to another person being punishable by imprisonment; people involved in fraud or dishonesty, which certainly makes sense; and people involved in an offence under chapter XXXI of the Criminal Code or an offence that, if committed in Western Australia, would constitute such an offence. I have to plead ignorance on what chapter XXXI of the Criminal Code is! However, the point that—I would not say disturbs me—sets off an alarm, is proposed section 76(1)(b)(iv), which is a prescribed offence. This takes me into the point of criticism I have with this bill, and certainly one I have had with a number of bills—that is, the movement towards regulation. Clearly it is being said that there may be other offences and the government wants the ability to prescribe by regulation, but we do not have that information before us today. The government has not even prepared the regulations on this particular bill yet. It seems to me that as we move further and further towards skeletal legislation and towards taking the detail out of legislation and putting it into regulation with the argument that we do so to ensure that the legislation can be rapidly updated and keep up with contemporary events, we should at least have a first draft of regulations before the Parliament as a starting point. We should be shown the regulations—the meat on the skeletal legislation being put forward as of this date. The government may acknowledge that the regulations may change and vary as we move forward in time, but at least the regulations presented are the line in the sand today. I think that would give us a very firm position to debate the merits of how that legislation is formed. Again, we do not have that today. Rather than the opposition running off and asking whether this or that will be included, we will take it on good faith that those prescribed other offences would be what we would view to be sensible; however, I raise the issue.

Another thing I think is great about this legislation is the ability to bring in a statutory manager when there is concern, particularly to do with the solvency of a retirement village. I shared some major concerns with a number of people at the Hillview Lifestyle Village, which, granted, is regulated not by the Retirement Villages Act, but the aforementioned Residential Parks (Long-stay Tenants) Act. Those residents were extraordinarily concerned about the solvency of that operation at that time and I saw the fear and concern that went through people who essentially had their entire livelihoods invested in this particular place, and who suddenly felt, “My gosh, this could all come crashing down around our ears and we do not have the capacity at this point in our life cycle to recover from that.” It would have been a devastating blow to them and they were very, very concerned. We took the time to meet with the owners and managers, and we assured the residents that there was not a problem. However, I think this safety net is terrific; it will really help ease concerns if that unfortunate set of circumstances occurs in the context of a retirement village.

Regarding the cooling-off periods and disclosure in contracts, again, I think we need to be thinking about standardisation. I do not know whether members have seen any of these contracts that people are subjected to, but, honestly, they are denser than the legislation we pass in this place. The language involved is more obfuscated and people are really at the mercy of boilerplate lawyer text. A movement to a more standardised set of contracts, which could again be simplified even further so that people could get a simple statement about what they basically are agreeing to, would go a long way to ensuring people do not get themselves in a situation in which the cooling-off period is necessary. I personally think the cooling-off periods are a little short, given the size of the investment that some people will make in these villages. In some cases the period can be as little as

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seven days if certain circumstances are met, and that just might not be enough time for people to get their heads around everything.

Regarding the appeal to the State Administrative Tribunal, I think that, again, will go a long way to resolving some of the conflict that I have seen arise from time to time. The requirement of a special resolution, however, seems a bit counterintuitive in that it will involve a level of politics at the site itself. People will have to go through a formal process to get a formal meeting, at which the disputing parties will ultimately be present in adversarial manner, and I can really see that that will create a bit more bad blood and conflict within the retirement village itself, which will then boil over into SAT, and bringing things back to a sensible point will be quite difficult. It would seem to me also that we presume that the requirement of a special resolution means that one set of residents might have a concern, but they may be in the minority and they will not have the ability to get the numbers to pass the special resolution. It all depends on the nature of these particular increases and recurrent charges, but if they are for a particular facility that is available only to a small group of people, it is possible that the people who are being affected by that recurrent charge would not have the ability to get a special resolution up and therefore have it addressed. That could be quite unfair. Presumably, if the other residents are not affected, they could be swung over to agree to a special resolution. But, as I said, they would be in an adversarial position at that point, with the management of the village also wanting to throw in its two cents and a lot of people saying that they do not want to buy into that fight, and it might fail on that basis. I see that as a problem, and I think the Western Australian Retirement Complexes Residents Association agrees with me on that particular point.

I would like to address the idea of the recurrent charges after a non-owner resident leaves a village. Obviously, its time has come. I was approached by the son of a retirement village resident who had died. He was very concerned about this provision. The circumstances that he described to me would not be covered by this clause because, in that instance, it was not a non-owner resident; it was an owner–resident. That is pretty much the only modality by which people can get into a lot of the villages in my area; they buy into the village. They will not be covered by this provision. We need to look at the recurrent fees for the owners of homes within a retirement village.

Mr J.M. Francis: Having said that, there are a lot of villages that might be 20 or 30 years old now, and as people move out of them, the market is somewhere else. The market is looking for a modern, newer building. So the owners of that village will have a lot of buildings on their book. Let us say that they are 50 per cent occupied by people who are going to be there for a while and 50 per cent are not. They are going to have to change the way they do business because they need to realise that what they have is a very cheap and low-budget apartment that can be rented out by people who do not have the money to buy it.

The DEPUTY SPEAKER: Member for Jandakot, are you making a speech?

Mr A.J. WADDELL: Mr Deputy Speaker, I welcome the interjection. I think that is a very valid point; this is an evolving market. This bill will deal with a circumstance that will probably become more common as time goes on. I am just highlighting the other side of it—those people who are locked into it because they own it. The member for Jandakot also highlighted that there are a lot of older units out there and when they come back onto the market, they are in competition with the newer units. This is a problem that I have seen, particularly when the retirement village is in the process of expanding. So, the managers of the retirement village are attempting to sell the new units in the development that they have brought to market and that is in competition with the units that have been vacated, usually due to a death or somebody requiring nursing care.

[Member’s time extended.]

Mr A.J. WADDELL: That is quite a conflict because they continue to receive the recurrent costs while, at the same time, they are in competition with them in moving that unit on. I think there is some perception that that can lead to some unfair practices. It is something that I hope will be included in the next legislation to come before us.

Although I may have pointed out a number of defects, this legislation is far better than what we have today. It will certainly be welcomed by the communities in the retirement villages within the electorate of Forrestfield. I encourage the government to get the draftspeople going on the next legislation as quickly as possible because we need to address the remainder of the statutory review recommendations. I also encourage the government to give some serious consideration to moving forward with the residential parks long-stay tenants legislation, which is of equal concern and has many of the same features. I can imagine a time in the future when that legislation will come into this legislation and we will see them as two variations of a similar thing. I commend the bill to the house.

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MR A.P. O’GORMAN (Joondalup) [5.35 pm]: This feels a bit like a scene from *Groundhog Day*. This is the third or fourth time, and maybe even the fifth time, that this issue has been brought to the house. First of all, I acknowledge the former member for Carine, who brought the issue of the Karrinyup Lakes Lifestyle Village to this place when the previous government was in power. Again, through a private member’s motion, the details of the Karrinyup Lakes Lifestyle Village and the abuse and misuse and a whole range of other things that were happening there were brought to the public eye through the persistence of the former member for Carine, Katie Hodson-Thomas. Out of that motion arose the Economics and Industry Standing Committee inquiry that I was seconded onto in order to help get the report to this place.

The Retirement Villages Amendment Bill 2012 has had a long incubation, if you like, with the Karrinyup Lakes Lifestyle Village inquiry. The review of the legislation started in 2006 under the former government. The final report was tabled in November 2010 and it is now November 2012; it has taken two years since that report was tabled in Parliament to get to this stage. Disappointingly, we do not have a bill that addresses all the issues raised in the Karrinyup Lakes Lifestyle Village inquiry, and it does not address all the issues that were raised in the review. The Western Australian Retirement Complexes Residents Association is keen to see a partial acknowledgement of those issues pass through this house before Parliament rises for the year.

I also acknowledge Mr Wyburn in the public gallery and Mr Cousins. Over the last six or seven years, we have gotten to know each other rather well. I think at one of the very early meetings with a couple of other seniors, they made the comment to me in my office that they could be dead by the time this gets to Parliament. Unfortunately, one or two of them have passed away, so I also acknowledge those people. I also acknowledge Bernie Sheridan from Karrinyup Lakes Lifestyle Village, a man very much into his senior years who put his heart and soul into making sure that the residents of the Karrinyup Lakes Lifestyle Village were no longer bullied and abused by the former owners. In doing so, I also acknowledge the new owners of the Karrinyup Lakes Lifestyle Village. The village was once described in the media as one of the worst in Australia. Since the Economics and Industry Standing Committee’s report was released and since the review of the act has been completed, there are new owners of the Karrinyup Lakes Lifestyle Village. Their intention is to turn Karrinyup Lakes Lifestyle Village from one of the worst in the country into one of the best in the country. I acknowledge Gavan Kelly and John Preuss, the new owners of the village under their business name the Churchlands Group. They bought the Karrinyup Lakes Lifestyle Village and worked cooperatively with the residents and a number of other stakeholders to make sure that the residents were taken out of the hell they were living in and were put into a situation that we would all like our parents to be in, and probably would like ourselves to be in when we get to that point in our later years when we enter a retirement village, if that is our will.

Again, I thank Patrick Wyburn and Des Cousins. They provided us with a briefing on this bill, and it deals with all the issues that have been highlighted here by a number of my colleagues. I will not take my full time because I realise that we want to get this bill through this house this evening, and a number of these issues have been canvassed by a number of my colleagues. However, I think it is very important to outline the issues around village management. Village management was the major issue at Karrinyup Lakes Lifestyle Village. We had two operators there who, for want of a better word, were bullies. They were not professional. They did not understand the basics of doing proper business in a lifestyle village. To that effect, this bill seeks to give the State Administrative Tribunal the opportunity to remove nonconforming managers.

Having said that, there is nothing in this bill, and I do not believe it is contemplated in future bills, about training and qualifications for managers of lifestyle villages. There is no formal qualification out there at the moment. As we know, it is a relatively new area and it is evolving, but I think that one of the things that both government and opposition—because at one point we will be in government again; there is no discussion about that—need to keep in mind is that we must put in place a proper training regime so that we have proper managers trained in not only the management of the facility, but also how to deal with seniors in our community, because the seniors in our community are a very special group of people. They have done their time. They have lived their lives and they have paid their taxes. The last thing they need to do is stand around and organise themselves again to fight management in a village environment. Therefore, we should make sure that the managers of these villages have a proper qualification that goes to the basics in the first instance and then, as this type of lifestyle evolves, it can be taken higher so that in this state we have the best possible practice in the country for our managers. At the moment, the only training that really applies is to managers of residential caravan parks, which probably does not go right to the fact, because although residential caravan parks are also about a lifestyle, they do not necessarily always deal with seniors in our community. So, I ask both the government and members of the opposition to keep in mind, when we deal with residential retirement villages in the future, that we should put in place a training regime to make sure that we have appropriate people—people who understand not only their statutory obligations, but also how to deal with those very people in our community whom we should be looking after best. In older cultures, it is quite common that younger people in the community look after the seniors.

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They look after them to make sure that they are fed and housed in an appropriate manner. As a modern community, we should not depart from that. All of us should have in the back of our minds that at some point we ourselves will become seniors, and we will probably expect the level of respect and taking care of that we think we are entitled to.

I applaud the clause in the legislation that goes to the statutory manager and the possibility of removing a statutory manager. I am a bit critical of the government about the timing in that we are now in the last three weeks of this parliamentary term—in fact, in the last three weeks of this term of government. I am confident that this bill will get through this place tonight, but we have a set of regulations that will have to come into effect, and I am sure that we will not see that set of regulations before the rising of this Parliament on 15 November. That is a shame, because we should be able to examine those regulations and either allow or disallow them based on the considered opinion of members in this place. It is normal for regulations to pass through this place as accepted or to be disallowed on the basis that they are not doing exactly what we intended them to do. I am a bit disappointed that it has taken so long and that it is in the last three weeks of this term of government that we have received this bill in this place.

I will deal with disclosure and cooling-off periods. Again, the Western Australian Retirement Complexes Residents Association is pleased that there is a change to that and that there is a cooling-off period. As my colleague the member for Girrawheen mentioned—she is a lawyer, although not in this area—she was a bit flabbergasted at the size and complexity of the contract that was handed to her parents when they moved into a retirement village. Hopefully, we can get to a point at which we have a standard document that is accepted across the retirement village industry. It happens under the Corporations Act and it happens here under the Department of Commerce also whereby, in constitutions for not-for-profit groups, there are certain clauses that can be just plucked and put in there. I hope we can get to that situation with retirement villages and with this particular industry, so that there are common clauses and we do not have to go to a lawyer to decipher the booklet we have been given to understand whether we will be able to live to the end of our days in that retirement village with as little interference as possible from outside or from the management.

One of the issues that was raised was the appeal to the State Administrative Tribunal against excessive and unwarranted increases in recurrent charges. One of the big problems that we had with Karrinyup Lakes Lifestyle Village was that the operators there really worked hard on the residents. They put the fear of God into many of the residents. In fact, when we had some of the Economics and Industry Standing Committee hearings, we had to close the hearings to the public so that some of those seniors, particularly the females, were able to give evidence to us without fear of recrimination from the operators of that village. The fact that it takes a special resolution of residents, which means that the managers have to instigate the special meeting, does not quite give the power or the leverage to the residents of the retirement village to be able to insist on moving a resolution to take an issue from the village to SAT and have it dealt with. The management of the village still has to instigate the special meeting. That is a big problem and a big failing, and I hope that that can be dealt with. I hope that in the regulations it is made much simpler so that the residents have some power. We have talked a lot in this place about the power of the big shopping centres over the smaller businesses and tenants in those shopping centres. I see this as something very similar. All the power still rests with the owners and managers of the village and not necessarily with the residents.

On the village amenities and services, WARCRA has welcomed the proposal to clarify SAT’s powers to make orders and deal with disputes relating to the provision of services which were promised to residents but which were either not provided or excessively delayed. Again, this comes from the Karrinyup Lakes Lifestyle Village matter. One of the things that the village failed to do was provide an appropriate clubhouse and a swimming pool. They were two of the major facilities that were promised. In all the information that went out to the residents, or to the prospective buyers or purchasers of Karrinyup Lakes Lifestyle Village, it was sold as having these extra facilities. They never materialised to a satisfactory level under the former owners. As I said before, when the current owners went into that village, their first job was to clean up the mess that was there, and they got the pool and the clubroom up to an acceptable standard. They negotiated with the residents and got it up to a standard that I now get from Bernie Sheridan emails saying, “Guess what? This happened; it’s really good.” I am really happy that the issues at Karrinyup Lakes Lifestyle Village have been resolved. If this legislation had been in place previously, we may never have seen an issue like that at Karrinyup Lakes Lifestyle Village. I know that it is an evolving area and it is new, but I think as members of Parliament we owe it to our constituents and residents, particularly our seniors, to maintain a close watch on how this legislation and these regulations come into being and how well they regulate the industry and make it work.

As has been mentioned earlier, it is very important that the fees and charges do not include the operating expenses of the managers. Fees such as registration under the Retirement Village Association and all those sorts

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of things are part of the business of running a retirement village. They should be taken into account in the business plan and not levied on residents. I do not think it is fair for residents to pay for the operators’ costs. That is something we will watch very closely for in the next bill when it comes to this place in, I hope, a not-too-distant future. I know that it will be in the next term of government, but I think it will be the fortieth Parliament and not the thirty-ninth before that will come in. The amount of time that charges can continue to be levied once a resident moves out of a village has caused great consternation. Again, at Karrinyup Lakes Lifestyle Village, I think it was two years, but it might possibly have been three years, that one couple waited to get some money back from the old managers—not the current managers. The current managers—I have just looked at their website—actively market the vacant properties on their premises. That is a good thing that the former managers never did. Although the cap of six months on existing contracts is not ideal, it is a transition process and we recognise that the government cannot just change everything willy-nilly, because a lot of businesses would not be able to cope with that in the short term. The proposal of three months for new contracts is very welcome and I think it will be a great source of relief for many people who live in retirement villages and those who intend to go into retirement villages.

I will not ask for an extension of time, because I said I would not. I also acknowledge the Council on the Ageing and the Department of Commerce for the Seniors’ Housing Centre. Once again, there is pressure on that organisation to deliver services. I believe that it has not been fully funded for three staff and I am concerned that under the efficiency dividend, a third staff member may never get there. I commend both COTA and the department for doing a great job. Seniors’ housing is a big issue for us; we have all heard that one in four of our population will be more than 65 years old in the next 10 years. I might add that that just about includes me; I will be 55 in March, so in the next 10 years I will be one of them!

Mr J.M. Francis: We’ll find a village for you!

Mr A.P. O’GORMAN: It is all right; I have my plans laid out, so I know where I am going!

I commend the bill to the house. We will ask some questions in consideration in detail. I am disappointed that it has taken this long, but it is better late than never.

MR C.J. TALLENTIRE (Gosnells) [5.54 pm]: I rise to also offer my support for the Retirement Villages Amendment Bill. I note that the bill has been a long time coming and that the original review of the current legislation was tabled in Parliament on, I think, 18 November 2010. It has taken until now, late in 2012, for us to see these amendments; nevertheless, they are welcome. The amendments go some way towards picking up on the recommendations—there were some 100 recommendations—made in the report.

The provisions around management and who is entitled to manage a retirement village will be amended so that people who have been convicted of some sort of fiscal crime or sexual offence will not be allowed to be a manager of a retirement village. It makes perfect sense that that would be the case. I have concerns, though, about the potential for someone to appeal a ruling against them. Someone who has been found guilty of some sort of fraud in the past and is therefore not entitled to be a manager of a retirement village is allowed to appeal and perhaps have that negative ruling overturned. To me, that seems highly questionable. I think it is wrong that people may not know that that overturning has occurred. Therefore, I put it to the parliamentary secretary that there should be not only some explanation of the rationale behind this, but also consideration given to a register of those people who normally would not have been allowed to manage a retirement village but who, through the appeal process, have been allowed to become managers. This would enable people to have that transparency to know what is going on. I note that in other states, there is just a blanket ban: if people do not meet the standards, if they have offended in some way that means that they are not suitable to be a manager of a retirement village, there is a blanket ban on them. I do not understand why we have not adopted that approach in Western Australia.

I mentioned the idea of a register and I think it would also be important to have a register of all retirement villages and their managers made publicly available. That probably could be well managed by a body such as the Seniors’ Housing Centre. I, too, offer my support for the initiative of the Seniors’ Housing Centre—a place where people who are contemplating going into a retirement village can go to get advice about the contract that they are contemplating signing and this huge decision that they are about to make. It is an enormous financial decision; they are selling the family home and considering going into a retirement village. From my experience of talking to people in retirement villages in my electorate, many people say it is a great decision and that they are very happy with it. Nevertheless, it is a big decision and one that I think people should not be left to make on their own. It is true that there are people who are well qualified to read these contracts and make their decision based on all sorts of good information, but the vast majority of people do not have experience in dealing with complicated contracts and would appreciate some guidance. I note that the bill provides for cooling-off periods. That is excellent and is much needed. However, I think we need more than that; we need to make sure that the

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Seniors’ Housing Centre is properly resourced. I am concerned that at the moment only a few people are working there and that they could very quickly be overwhelmed and not be in a position to give seniors the advice that they require. Therefore, yet again, it comes back to a matter of resourcing. We need to make sure that the Seniors’ Housing Centre is properly resourced to give people the advice they need to look at their particular circumstances and the contract they are being asked to sign. I think some standardisation of those contracts would go a long way towards making easier the task that employees at the Seniors’ Housing Centre may have. I use the term “employees” with a question mark because I think there are only one or two people there who really have the time to do this at the moment. That is clearly inadequate, so work needs to be done on that.

Another area in which the Seniors’ Housing Centre or a service through the Council on the Ageing could be called on is to give advice on recurrent charges, especially when recurrent charges are rising. We can all envisage a situation in which a manager may feel that there is a need to increase those charges. This legislation provides for the residents to get together and refer the matter, with the acquiescence of the management of the retirement village, to the State Administrative Tribunal. I am worried, and other members have touched on this, that the process is too ponderous, too complex and is almost designed to dissuade people from making such a referral to review the legitimacy of recurrent charges. This appeal to SAT, in short, sounds good, but we need to know how it works. That is another matter that we will examine in further detail later this evening.

Residents of retirement villages in my electorate and just out of my electorate—I was recently at the Forest Lakes Lifestyle Village —

Sitting suspended from 6.00 to 7.00 pm

Mr C.J. TALLENTIRE: Before the dinner break I mentioned my visit to Forest Lakes Lifestyle Village. I wanted to say just how pleasant the atmosphere is at that lifestyle village. The residents obviously enjoy the many qualities of that establishment. They like the fact that they live in a community and that they do not feel isolated. Some of the residents put to me that when they were living in the suburbs, they did feel somewhat isolated, whereas in the village there is a constant looking out for one another with little systems in place, such as a neighbour checking up on another simply by checking that the curtains are drawn in the morning and that everyone is okay. There were other things that I noticed at the Forest Lakes Lifestyle Village. Something I was very pleased to see was an openness about and tolerance of companion animals. I know that that is a concern for many people who want to go into a lifestyle village as part of downsizing to a smaller home where there is less general maintenance. I have heard that there is a concern that people cannot have companion animals in lifestyle villages. That is not the case at Forest Lakes Lifestyle Village; there is a tolerance there. I wonder, though, whether that needs to be clarified or legislated. There may need to be some rules around the behaviour that is expected. Obviously, we want, as always, responsible pet ownership, and that a dog or cat in a lifestyle village is not going to be a nuisance at all to other people. Indeed, companion animals would be considered an enhancement of the overall wellbeing of the property. The many benefits that come from companion animals were mentioned when I talked to people.

Other points were raised with me at Forest Lakes. One big issue was that of the process for determining when someone has relinquished a property and the issue of non-owner occupants leaving a property and having to pay the recurrent charges for an extended period. That period is currently six months and will go down to three months with the passage of these amendments. There is still some ambiguity there. I think we need to be very clear about what is the trigger point for the relinquishment of an establishment. It is just possible that the property owners, and by this I mean the establishment owner—the body corporate, if you like, and I use that term in a generic sense—has almost a vested interest in not seeing a particular unit reallocated. They would be quite happy to have someone who has moved on, who has perhaps gone into a nursing home or has passed away, continue to pay those recurrent charges either individually or through their estate. That would suit the owner; that is easy money. We need to make sure that there is a system in place that provides an incentive to owners to have the necessary refurbishments done as quickly as possible and for such a unit to be reallocated. That issue was raised with me by a number of people.

A number of people also raised with me the issue of cooling-off periods. I have touched on how we need to give people, before they move into a village, the opportunity to really scrutinise the contract that they are about to sign and to get expert advice. That is only going to be effective expert advice if there is the resourcing of places like the Seniors’ Housing Centre. It is no good talking about creating a Seniors’ Housing Centre if it is not going to be properly resourced, as it just will not be able to do the job. Other people talked about another issue that I was a bit surprised about. In some cases, there is only a single real estate agency chosen for a development—there is an exclusive connection with a particular real estate agent. I think that needs to be further investigated as well.

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I have to say that the Retirement Villages Act does provide a fairly solid framework for people in these properties. I make a comparison with the situation for those in properties governed by the Residential Parks (Long-stay Tenants) Act, where I do not think the rules are quite as clear. I know that a review is underway and that people can make submissions to that review up until the middle of November. It is important that people get their submissions in. I will not go into detail here, but there are some problems with the arrangements with properties governed by the residential parks act. We need to make sure that the same standards apply there that apply for retirement villages.

I also want to acknowledge that at places like Forest Lakes Lifestyle Village there are management committees that do a fabulous job and give residents the opportunity to raise concerns. I think we need to make sure, though, that the regulatory framework that supports their activities is really solid, so that people can speak out and raise issues without any concern that management might come down on them. At Forest Lakes there is a process in place where they have quarterly meetings. The president, Denise Trusson, does a fantastic job of encouraging people to come forward with their concerns. That seems to be a good model. Sometimes things can go wrong with a management committee or it can be challenged and be placed in a position of conflict with the ownership of the establishment. In those cases, we need to make sure that there are really good rules around that.

The whole concept of retirement villages is one that is serving us well. It is one that is evolving. There is greater demand for it. We need to make sure that these amendments get through so that we are keeping up with this fast-evolving area. One thing that interested me was that residents raised the issue of how this is an alternative to living in suburbia and that they enjoy living with people of mostly the same age bracket. I suppose that raises some questions in my mind because we hear of other studies that show the many benefits that come from intergenerational living. I am still trying to work out how it can be that when there is a uniformity of age, people can feel so much more at ease than if they are in a more multigenerational circumstance. Perhaps the thing about multigenerational living is that it works best when it is around a family. But even there, I am not sure that it works. I suppose we have to look at the fact that our society is changing and our human way of living is evolving as well, so there are differences between the way we do things now in the twenty-first century compared with, say, the nineteenth century. There are changes happening.

I am getting close to my conclusion. I want to acknowledge the good work of the Western Australian Retirement Complexes Residents Association and the submissions it has made, which have been so helpful. I wanted to just touch on something that came from the Retirement Villages Association. I was concerned to read a comment that the association made, and this gets back to the issue of that trigger point for determining when a unit has become vacant. The association is concerned that we would be switching to a three-month phase. It said —

Now we have a Government proposal to force property settlements within 3 months. This is simply unworkable. Anyone who has bought a house knows this is hard. Often we have to undertake rectification works or other maintenance before selling. This isn't about good policy or good outcomes for residents.

I am not sure about that claim; I suspect the association is making a bit of an ambit claim in that it is complaining it would take it three months to refurbish a property. I just do not think that is reasonable; I think a refurbishment can be done in a matter of days if that is the wish. I think we have to steel ourselves for that sort of criticism, because I do not think it is really warranted. There is a demand for these properties; if they are put into a good state of repair, then future tenants—future owners, even—will be quickly found. That is one little criticism of this legislation I saw from the association.

Overall, it is an improvement. I understand there will be a second stage of legislation to bring into effect other recommendations of the report that was tabled in this place in 2010, and I think the second stage may be more around issues property owners have raised. Perhaps the Retirement Village Association will be more satisfied with the second tranche of changes.

It is important, of course, that as the demand for retirement village-style living grows, these places operate as profitable businesses if they are businesses, and fully viable if they are not-for-profit, and that that is respected. At the same time, though, we have an obligation, especially in this Parliament, to ensure that the consumers of the product are properly looked after. That is why I was particularly pleased to see that aspects of this legislation go to making sure that the rights of the occupants—residents of these establishments—have their best interests looked after.

I will conclude my remarks there, and I look forward to further analysis of the detail of the bill when we go into consideration in detail.

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MR A. KRSTICEVIC (Carine) [7.11 pm]: I stand to make a few remarks about the Retirement Villages Amendment Bill 2012, which amends the Retirement Villages Act 1992. As we can see, it has taken 20 years to get to this point. Over the past 20 years retirement villages have flourished—they continue to grow and expand—and they have obviously well and truly outgrown the 1992 legislation, as has been demonstrated by numerous examples in the community as reported in the media.

I spoke about Karrinyup Lakes Lifestyle Village in my maiden speech, and at that time I described it as the worst retirement village in Australia; it is an issue I have championed since then. It has taken a lot of time and fight to get this cause to where we have. One of things members have mentioned in this place is the length of time it has taken to get to this point. Let us not forget that the statutory review was completed on 18 November 2010; it was tabled in this house and has more than 100 recommendations. From having continually discussed this with three ministers over the past four years, I know that after that statutory review was tabled a number of those recommendations were implemented through regulation and, obviously, a number of legislative requirements had to go through this house. From my discussions with the ministers, and hearing that it had support from both sides of the house, I know we were very keen to get this legislation through as quickly as possible. Obviously, given the complexity of this legislation and the area we are dealing with, it became clear to the minister that trying to put everything through the house at once was going to delay things even further. I commend the minister for, I suppose, breaking it into two, and I think the major concerns of retirement village residents are being addressed in this first tranche.

But it is also important to note that other things have been done along the way, such as the Seniors' Housing Centre, which was an important initiative. Prior to that being implemented, seniors did not really have anywhere to contact if they were contemplating going into a retirement village; they did not have anyone to speak to or a focal point. I think the Seniors' Housing Centre is a great initiative, although it still has to evolve into what it will be in the future and attain the level of importance it will have in this particular area. In the next 10 years, the population demographic will be that one in four people will be more than 65 years of age; luckily, I am nowhere near that point, but for those in this house who are, it is good to know this legislation will make their lives a little more comfortable. I think that is important to note.

As to the complexity involved in this legislation, the minister had to make sure it did not conflict with other legislation such as the commonwealth Corporations Act 2001; numerous pieces of legislation had to be taken into account in the drafting of this bill. I know that the second tranche is being looked at extensively to make sure that there are no loopholes, we get it right, and that we put the best possible legislation we can before this house.

But it is also important to note that retirement villages are businesses, and that people invest in retirement villages to, at the end of the day, make a profit. A lot of them are owned by private investors. So it is about trying to find that balance between the owner-operators and retirement village residents so that on the one hand the operators are financially viable and able to make a profit on the quite substantial investment they have made, but on the other hand retirees are also getting value for money for their investment. From speaking to retirees in my electorate, I know that they do not have a problem with paying the fees and charges or contributing towards the capital cost of the retirement village as long as they get what they signed up for; as long as they get a fair deal that is open, transparent and up-front.

The contracts can be quite complicated and difficult to understand. I have seen some, and I do not know how easily I would get through those contracts; a good lawyer would probably charge a fair swag of money to explain them. I think that simplifying or standardising those contracts somewhere down the track would go a long way in the direction of helping people involved in the industry—owner-operators as well as residents. If they were getting a consistent product they would know what they are doing, and I think that is something worth considering in the future.

This bill contains six major reforms. Residents will now have the ability to appeal to the State Administrative Tribunal about excessive increases in charges and operating costs, which I think is very important because they will have a statutory process and a structured way to follow up on this particular area. I know it is an area that can be quite distressing, because in a lot of cases our retirees are the most vulnerable people in our society. Albeit a lot of them are educated and capable individuals, there are also people who struggle to deal with conflict. These are mostly widows who are at the top end of the age bracket, and I am not sure how comfortable they feel about dealing with aggressive operators or even trying to resolve conflicts or disputes in legal matters. They may feel uncomfortable even raising questions with a good operator who would be more than happy to answer them and support them. I think it is about understanding that dynamic and understanding that they are at a vulnerable stage of their lives, and we need to try to make it as simple as possible.

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We all know there are good and bad operators. As has been mentioned in this house this evening, the Karrinyup Lakes Lifestyle Village, which was under the management and control of Moss Glades Pty Ltd between 1999 and 2011, was portrayed as, I suppose, the worst retirement village in Australia. From my first days of dealing with the residents of Karrinyup Lakes Lifestyle Village in September 2008 through to today, I know that, yes, it was atrocious. It was an awful place. Restraining orders were taken out and threats were made against retirees by the owners. Myriad problems existed in that village. I think managing the issues around this particular village made the Department of Commerce very aware that the laws governing retirement villages needed substantial changes. It has taken a lot of years to get here, but it has got here and we are discussing the bill today, and I am glad to hear it will pass through this house this evening. The Karrinyup Lakes Lifestyle Village saga started in 1999 when the City of Stirling refused the then developer, Moss Glades, its first application to rezone the land. The City of Stirling had an uphill battle with the developer over the following 10 years before planning and subdivision approval was finally granted.

As has been mentioned, the previous member for Carine, Katie Hodson-Thomas tried to assist residents, but quickly realised that the Retirement Villages Act 1992 lacked the legal power to help the residents and that it constrained her. Katie brought the matter before the house in a grievance on 12 March 2008 and outlined the many miscarriages of justice that had occurred in the development of the village. The developer had failed to follow the proper procedures of the City of Stirling in gaining building and subdivision approvals, had created illegal leases, had bullied the senior citizens, had refused to explain the financial charges and had prevented residents from selling their property. The list went on and on and on. Thanks to Katie's hard work, the matter was referred to the Economics and Industry Standing Committee. The standing committee's report was tabled in the Legislative Assembly on 19 June 2008, and I would like to repeat a statement from that report that was made about one of the developers, Mr Martin. It states —

Indeed, Mr. Martin presents as a bully, lacking even a modicum of the negotiation and management skills essential to the creation of an appropriate environment, within which some of the most vulnerable members of our community have chosen to live.

That is an understatement on how bad he was. Obviously, it is now history that the report identified the problems in the village and made recommendations about what should be done. This led to extensive efforts, principally by the Department of Commerce, to improve the situation for residents. It is very important to note that the Department of Commerce played a huge role in this area. I would like members to hear some of the examples of what those residents put up with over the years. Members should bear in mind that those residents paid hundreds of thousands of dollars to move into this village. The first thing they found out through the process was that their lease was invalid and, subsequently, that they had no legal ownership or tenure in return for the price they had paid for their home. Secondly, they found that the residences were built without local government approval, meaning that they could be subject to demolition. Thirdly, residents did not have the benefit of facilities that they had paid for. It took until 2011, some 10 years later, and after multiple trips to the State Administrative Tribunal for the developer to build the clubhouse and the swimming pool. In the meantime, of course, the developer was keen on charging them a facilities fee. When people were selling out of the village, it also wanted to charge a fee to them as well, even though the facilities did not exist. Members can imagine the torment that the residents were going through. At one stage, supposedly, Mr Martin almost ran down a resident, and the view was that it was a deliberate attempt to run them over. It is from that perspective that one of the restraining orders came into play.

The situation worsened. Residents were living in fear and under stress; some senior citizens had died; they all suffered financial losses; and some had tried to sell their homes and move on but were effectively prevented by the developer from doing so. Residents, therefore, were effectively stuck there. They found in their lease that the developer had to sell the properties on behalf of the residents. I suppose it depended on how much effort the developer chose to put into that process on how successful it was; and Mr Martin was not keen on putting any effort into that at all. As a matter of fact, he was not really doing a great job of trying to sell even the homes that he had available for sale. Finally, and most compelling, residents had to come to terms with the fact that legislation governing retirement villages in WA, and therefore their own government, did not have the necessary power to protect them from the likes of Moss Glades. There was, therefore, nothing we could do; that is a very important thing to note.

Can I make a special note of Minister Buswell? In discussions I had with him, he made available, through the Department of Commerce, legal assistance to the residents, and he provided a regular liaison officer as well. What ended up happening was that the Department of Commerce funded civil action on behalf of residents. It is not very often that we find a government funding civil action on behalf of members of the community. I therefore applaud the government for taking upon itself the funding of legal action on behalf of the residents. The minister said in this place in a speech he made that no expense would be spared in defending the rights of

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the residents of Karrinyup Lakes Lifestyle Village—and no expense was spared. It still does not mean that they did not suffer along the way. It still does not mean that they did not find it difficult. The legislation gave only so much protection. Legal processes, as we know, can be complicated at the best of times. However, I would also like to thank Minister Marmion and Minister O’Brien who along the way continued to support the Department of Commerce’s work for and support of the residents of Karrinyup Lakes Lifestyle Village. The work they did in that regard was outstanding. I am therefore delighted that all of that work finally paid off. Karrinyup Lakes Lifestyle Village finally changed hands in December 2011, and even that was a difficult process. When that was being pushed through, the then owners were fighting tooth and nail to hold onto it until the last breath. At that stage, the potential new owners had to get involved in legal action as well, all the way down to getting the shares transferred once the court agreed that would happen. The new owners are Gavan Kelly and John Preuss. They have worked with the residents. They have embraced the residents and treated them like family in the way they have built up the village. They have included them in discussions on the clubhouse and on the swimming pool, and they have continued to finish off the village and build additional residences. That has been a fantastic outcome and I really thank those two gentlemen for the way they have taken this venture on board. They did have a few problems along the way with the City of Stirling, but they were able to work through those problems. As members can imagine, the paperwork for all of the homes, the sign-offs for the electrical work and some of the building side of things were not up to scratch. The work itself was not shabbily done; the actual homes are beautiful homes and they are well built. But, unfortunately, all the paperwork was not always there, so we just had to work through getting agreement with the City of Stirling to make sure that they were all able to be signed off. Obviously the residents’ committee, and Bernie Sheridan in particular, played an amazing role in the village on the fight for justice for not just the residents of Karrinyup Lakes Lifestyle Village, but also retirees throughout Western Australia. His efforts can never be overstated. His commitment has been absolutely outstanding. I do not know how he did it, to be honest, because it was a horrendous and very difficult environment to be in. Hopefully, this new legislation will go a long way towards assisting those efforts.

Mention was made earlier about limiting the liability of former non-owner residents for recurrent charges. Again, the Karrinyup Lakes Lifestyle Village saga is a perfect example of someone like Eion Martin, who would never sell a residence when someone left. He did not care how much money he lost, as long as the resident was incurring the expense and paying the charges. It almost looks like that man tried out of spite to inflict as much pain as he could. We heard a good example of how it took a couple of years for some residents to be paid out the money they were owed, and that was after the department got involved, after legal action and after a range of other events. Nothing was ever easy in this example, which highlighted a number of holes in the 1992 legislation. A lot of those holes in the legislation will be improved in a lot of respects by this bill.

[Member’s time extended.]

Mr A. KRSTICEVIC: The bill also provides for a mechanism for a statutory manager to be appointed. That is very important. Interestingly enough, in Karrinyup Lakes Lifestyle Village there were two owners, Eion Martin and Len Whyman. An order was made at one point that Eion Martin could not be the manager of the village and, of course, Len had to take over, but Len was just a puppet for Eion. So in that situation they were one and the same, even though that decision had been made. It is an interesting point that if the sole owner of the village is also the statutory manager and is removed from that role, the sole owner still retains the asset that has cost a lot of money but in some respects is no longer in charge of the asset because the court has appointed someone else to look after its day-to-day operations. Hopefully, that will make people more conscious of the fact they need to know what they are doing and they need to do it well, because people can lose quite a big investment and it can be taken away from them through this process, albeit it states that people may be able to be appointed again after a review. It is important to make sure that we have a balance and that we are able to protect the residents from unacceptable managers. It is also important that we can put the village into administration. That is an important part leading into the future. It is important that the regulations give us options with what matters can and cannot be included in residents’ contracts. I think that is also a step in the right direction because as things pop up from time to time, as I am sure they will, it gives us the ability to fix those through the regulations and give some clarity to the residents. It also helps us give clarity to the owners through that particular point.

This legislation provides for what fees and charges can and cannot be payable by residents of the village. Again, we have a situation with Karrinyup Lakes Lifestyle Village in which the residents, or should I say the Department of Commerce, funded legal action against Eion Martin in the courts. Eion Martin lost the case and had substantial costs and fees awarded against him. He then tried to pass on those fees and charges to the village and take it out of village accounts because he said that it was all to do with the retirement village. That is when that particular clause comes in; owners of villages incur legal expenses and then try to farm them off to the village residents. I cannot think of anything crazier than someone taking legal action against someone, winning

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the case and then the losers trying to take the money to pay for the case out of the winner’s bank account. The losers are the ones who should pay it.

Lots of learnings have come out of this process. It has been a painful process for a lot of people. It has been a long process for this Parliament. I know that we all like to see legislation go through as quickly as possible. Sometimes the opposition will say that things are being pushed through too quickly and that due diligence and thought needs to be put into the process and on other occasions it will say that the legislation is going through too slowly. It is about having the balance between legislation and regulations and also between support and information and making people aware of their options. Retirement villages will not go away; they will become a bigger industry in the future. Retirees need to be very careful when they enter into these contracts to make sure that they are good contracts; they really need to run them past people. Even though there is a cooling-off period, people need to do their work in advance. Just like anything in life, they should not rush in to sign these contracts, because they are not getting in for free. What people pay for is what they get. It is very, very important for people to make sure that they do their homework. Obviously, I am very happy that this legislation is being supported and I am keen to see it go through. I am also happy to see the second tranche of legislation and the regulations also come through. It has done a lot for the people at Karrinyup Lakes Lifestyle Village and the people in my electorate. I commend the bill to the house.

MR P.B. WATSON (Albany) [7.34 pm]: I would like to make a few comments on the Retirement Villages Amendment Bill 2012. As people know, there are a lot of seniors. We have been talking about people aged over 60 years being a large percentage of people in this state. We have that in Albany at the moment. A lot of people go down there to retire. A lot of farmers come down from the hinterland. Therefore, retirement villages are a very important part of our community. I have one particular retirement village in Albany, the Royal Australian Air Force Association Amity Village. We have had a few issues there over the past probably four or five years. I think the village started off with 20 or 25 units and everything was great. Everybody got on very well; everyone met in the hall and mixed. All of a sudden they increased the number of units; there are about 60 units now. Some people go into retirement villages and want to have a say. Some people there might be grieving because their husband or wife has died and all they want is peace and quiet. To mix those together in the same environment can cause problems. As we all get older, we tend to be a bit grumpier. I know that I am getting a bit grumpier as I get older!

Several members interjected.

Mr P.B. WATSON: I know, I know; I put that in there to get the sympathy vote. But we do get grumpier and maybe our patience is not as great as it once was. People should be able to do what they want in retirement villages. They do not have to be active; they can sit back and relax. We want to give people the choice. In Albany people were not talking to each other. They were not going up to the hall. Certain cliques were forming. I think that was because no-one could put their grievances and raise their concerns. The manager there probably did not have proper communication skills. Parliamentary secretary, the requirement for the manager to not have committed any serious offence or have been disqualified from managing a corporation is interesting. We also need a people-friendly person. When we are dealing with seniors, there are all different groups. I know that in one of our villages in Albany we have a bank manager, a postie —

Ms M.M. Quirk: The posties can be grumpy.

Mr P.B. WATSON: The managers are okay. We get all different people. We get a farmer coming in who is used to running a farm or someone who has run a business in town. We get them all there together. We must find a way to get everyone working together really well, but if we do not have a proper manager there, that is a real issue. That was the problem we had. Things have improved. We had this lovely retirement village in Albany. I used to go along there on a Friday night, take a bottle of red down and have a drink—purely medicinal—with my seniors. Then it got to the stage at which one group would go one week and the other would not go the next week. That was because there was no way in which they could get their complaints heard properly. I must admit that the manager has changed his ways. The manager can either make or break a village. I would like to see proper training for managers when they commence working at retirement villages. Someone cannot go in to a retirement village and take over and think that they will run it this way or that way. I know that RAAFA has now put certain things in the contract for helping its managers.

The bill giving residents the capacity to appeal collectively to the State Administrative Tribunal against increases in recurrent charges is a great idea. People in these villages start talking and by the time it has got from unit 1 to unit 66, things have got twisted and turned around. By the time it gets to unit 66, people have the wrong idea. It is a good idea to get people together and have a little newsletter in the village, such as we are doing at the moment, so that people know what is going on. If there is an issue, they have someone to go to.

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I think the retirement village contracts have to be really looked at. A lot of seniors go into retirement villages and, as I said, they may have lost their partners. For example, a lady’s husband may have been on farms and he has administered everything for her right throughout her life and all of a sudden she is going into a village to get the comfort of the tightness of the village, but she is not sure what the contracts are.

There is also an issue when people leave their units. I had a problem with my mum. My dad died and my mum stayed in a retirement village. When she passed away, the estate was still paying recurrent costs until the unit could be filled. That was a bit disappointing and I now see that will not happen anymore.

Another interesting issue that is probably a bit different, parliamentary secretary, is something I was just talking to the member for Mandurah about. The other day I had a meeting with the City of Albany about the fact that retirement villages do not pay rates right across the state. When I was talking to the member for Mandurah, he mentioned that apparently that city started charging the Royal Australian Air Force Association retirement village in Mandurah rates, and that went to a High Court decision —

Mr D.A. Templeman: No, it was a Supreme Court action.

Mr P.B. WATSON: A Supreme Court action.

Mr D.A. Templeman: It is still pending.

Mr P.B. WATSON: This issue is a real worry for the City of Albany. For a start, retirement villages use all the city’s facilities, but they do not pay rates—they do not pay water rates and they do not pay land rates. These sorts of things are a real worry to some of the local councils. I do not know what the answer is, but I know retirement villages not paying rates is costing the City of Albany, I think, half a million dollars a year. That is something a bit different in reference to this bill, but I think it is something that we should put forward.

Mr D.T. Redman: What do you think the solution is to that, member? The not-for-profit sector is the same, isn’t it?

Mr P.B. WATSON: The RAAFA is of the not-for-profit sector. I do not know what the answer is. A city provides services to everyone in the community, but some people in the community use those services without paying rates for them. Apparently in Mandurah rates have been eased in gradually over a period of time. I do not want any more imposition on seniors, but everybody in the community pays rates. A senior could be living in their own house and they pay rates, but if they live in a village run by a charity organisation, they do not pay rates. I do not know what the answer is. Apparently in Mandurah rates have been brought in gradually. I think it is something we need to look at, but I know it is an issue separate from this bill.

I would like to congratulate the parliamentary secretary and the minister on this bill. That said, retirement villages are a thing of the future. They have been around a long time. As we say, we probably have come along the way a bit blinded—these villages have just come up. I think these amendments to the legislation will go a great way to making it much safer for our seniors to go into these villages. These are the seniors who have paid rates and taxes all their lives and they just want to retire and enjoy the fruits of their labour. I think this Retirement Villages Amendment Bill 2012 is a great way to make things much safer and much better for our seniors and I fully support the bill.

MS R. SAFFIOTI (West Swan) [7.43 pm]: I have some brief comments in relation to the Retirement Villages Amendment Bill 2012. I do not want to go over comments made by my colleagues, but Labor supports this bill.

I want to make a couple of comments that have been raised with me by residents in my area. The first one relates to rates, which the member of Albany alluded to. I will talk about one village in my area where the residents pay rates on their villas. One issue that has been put to me, to which the parliamentary secretary could perhaps provide some response if the information is on hand, or on which he could seek information for further debate, is how the Valuer-General assesses gross rental value for villas that are part of retirement villages. An issue was raised with me that I thought was quite interesting and I had intended to follow it up independently of this debate. However, given that we are going through this bill, it seems like an opportune time to raise it in this place because the issue might be impacted by further legislative changes. This issue is in relation to the GRV. It has been put to me that villas that are a part of retirement villages—I am not talking about in the not-for-profit sector, but just the other sector—have a number of other additional benefits. For example, in some instances there is access to swimming pools, gyms and to other benefits. I have been told that those additional benefits are part of the assessment of GRV. The view that has been put to me, and I have no reason to doubt it, is that the villas are assessed at approximately 20 per cent more than the average GRV for the same sized property because of the additional benefits that that villa has. An example was put to me that for a three-by-two villa in a particular village, the GRV is higher because included are things like access to a swimming pool, access to a

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gym, a good location and all these other things. However, a three-by-two villa down the road outside the village does not attract the same GRV and therefore rates are lower. It has been put to me that the residents of these villas pay for these additional benefits when they enter the village. Of course, payments are made by residents who purchase these properties and a key part of the package is that they pay for these additional facilities. To then be assessed for those additional facilities and be made to pay increased rates would seem to be an unfair penalty.

Those residents also put to me that for that particular village in my electorate the council does not do the normal things that are done in most other streets. For example, the normal lighting, clean-up and other things are all done by the village management and not the council. Therefore, the village actually imposes a lesser cost on the council, but is having higher rates imposed upon it because of the GRV. As I said, this issue was put to me and seems to irritate a lot of people I have spoken to about retirement villages, and it something I was going to approach the Valuer-General about. Could the parliamentary secretary find that information? If not, I will go directly to the Valuer-General.

It seems quite strange that these assessments are made on the basis of these additional facilities when those facilities have already been, in a sense, bought by the residents and when, in addition, those residents do not get full services from the council because the village management is in charge of a lot of the costs and functions normally undertaken by councils. I do not know whether a special rating is given to retirement villages. As we know, there are probably different ratings for those owned by church groups or the not-for-profit sector, but in relation to just normal villages, what is the approach taken by the Valuer-General in rating these properties? As these villages become more and more common, I think this issue will probably be brought to public debate more and more often.

I now talk about retirement villages and facilities for seniors in general. I think everyone in this house has a pecuniary interest in this matter because we will probably all end up, hopefully, in a retirement village. An issue that I think is becoming increasingly obvious is the need to better plan and to have land available for villages throughout the community. As the issue of housing affordability has come to, in a sense, a crisis point as housing affordability has decreased, as housing availability decreases and as land supplies also decrease, there is enormous pressure on housing access. I think the crunch comes particularly for seniors in our community, in particular for those on fixed incomes who basically compete with other people in trying to get access to housing. As I may have said before—or I as probably may have said to myself and not in this place!—I believe the state has a bigger role to play in providing land, and access to land, for retirement villages and seniors' housing. There is a lot of unused government land. Currently, unused land is declared unused by the Department of Regional Development and Lands and goes to a clearing house. The end result is that land is left vacant for years and years. The member for Girrawheen has land in her electorate that has been left vacant and derelict and land in my electorate also has been left vacant. I believe the government needs to be far more proactive about this. The pressures brought to bear by the ageing population on our housing and health systems are before us. I do not believe we can continue the traditional method of having a very complicated and longwinded planning and land approvals process to fix this problem. We talk about commonwealth–state relations. There is always an issue about who does what and the delineation of powers and functions. Land is the one thing that the state has control of. I have talked to a number of people in the aged-care industry, and one of the key issues for them is access to a big enough amount of land at the appropriate place and within a certain time frame to allow them to build high-care facilities with a village component to ensure that more people are encouraged to live in those sorts of environments. Retirement villages are good environments because people live close to each other and there is a support system. The seniors have people around them who want to do the same sorts of things and they keep each other company. Of course, there will always be retirement village politics, as the member for Albany outlined. Issues will arise wherever people are living next to each other. However, the benefits of retirement villages and of seniors living together far outweigh the negatives. The state government needs to be more proactive. It cannot be reactive and just sit back and let proposals come and go. It needs to be more aggressive and ensure more places for seniors to stay. Western Australia has a housing affordability crisis and issues about access to housing. Retirement villages benefit seniors in our community and also free up the existing housing stock for other people in the community, so it is a win-win situation.

An issue that has been before this government for about three years is the land that has been set aside for an aged-care village in Ballajura around Paradise Quays. This area was earmarked by the City of Swan as a place for aged-care development that includes villas, a high-care facility and a retirement village. Discussions took place and a deal was done between the state government and the City of Swan. The state government sold some land to the City of Swan and everything was going very well, but an issue that has never been resolved is the buffer around the Water Corporation's treatment plant on Alexander Drive. I have said in this place a number of

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times that that treatment plant uses an outdated mechanism of treatment. It uses a type of chlorine that requires a buffer between the treatment plant and the residences. Ideally, the Water Corporation should use a newer type of treatment because that type of treatment in an existing residential area is outdated. To reduce the buffer, we need the Water Corporation to take action to change the way it treats the water in that treatment plant. I put this to the previous Minister for Water. Frankly, I believe that if the previous Minister for Water was still in the cabinet today, some action would have been taken. I believe he took issues quite seriously and actively wanted to resolve problems. I always found working with the previous Minister for Water, the member for Eyre, quite productive because he wanted to solve problems. The Water Corporation needs some direction or funding to change the way it treats water at that water treatment plant. That would reduce the buffer and allow the retirement facility to be built where it was agreed it would be built. That would enable new accommodation to be built for seniors in Ballajura.

An issue that is always raised with me is that when seniors want to retire or move into a village, they want to remain in the community in which they have lived because that is where their networks are. They know the doctors, the people in the community and the shops. It is where they live and it is their community. When possible, we should create more land in all communities to ensure that seniors can move into a village within the known environment in their community.

This issue has been before the state government for two or three years. I have asked the state government to provide some direction to the Water Corporation to change the chlorine facility and reduce the buffer. It is as simple as that. That would allow a retirement facility to be built in Ballajura. What would be the flow-on effect? The seniors would be in a dedicated village and the community would benefit from having a dedicated seniors' centre and expanded recreational facilities such as an outdoor lawn bowls area. That would be a benefit for the seniors. The homes that the seniors left would then become available to their families or the wider community, which would help address the issue of housing access. Again, it is a win-win situation. I understand that the cost of reducing that buffer is between approximately \$750 000 and \$1.2 million. The economics are good. For around \$1 million, the Water Corporation, either by ministerial direction or consolidated contribution, would create another 200 to 300 homes. Compare that with the cost of constructing 200 to 300 homes. As I said, the economics are all one-way. The government has not been responsive to this issue, which I believe is causing increasing pressure on the community. We need to be more proactive about identifying land to allow seniors to move into villages that are accessible and local to the community. It is not a matter of thinking it will take care of itself, because that creates enormous pressure in the community and does not solve the problem.

I welcome these amendments to the bill and understand they are the result of some of the recommendations made by the review. We look forward to the amendments. As I said, I believe this issue is a lot broader than what we are dealing with today. We need to see a more proactive, aggressive and coordinated approach to this issue by the government. Someone from the government must stand up and say they will address this issue.

MR P. ABETZ (Southern River) [7.58 pm]: I will make a brief contribution in support of the Retirement Villages Amendment Bill 2012. The Australian Bureau of Statistics forecasts that in 2051, 22.2 per cent of Western Australia's population will be over 65 years of age. That means that the aged population in the state will effectively double in less than half a century. The retirement village industry is definitely going to be a growth industry for some time yet. Even though my electorate of Southern River is generally a young area—the median age is 32, according to the last census—18 per cent of the population is 55 years of age and over. There are two retirement villages in my electorate; there were three before the redistribution. I have had very extensive consultations with residents at all three about retirement village issues, and I am delighted that this batch of amendments has come to Parliament. Another lot of amendments is due to come before the Parliament but they are apparently a little more complex so we will therefore have to wait a little longer for them. There is no question that people moving into retirement villages are making a very significant decision that needs to be very carefully evaluated. The action that the government has taken in establishing the Seniors' Housing Centre is a very positive step towards assisting people to make a wise decision.

One of the big issues that has been raised with me by people in my electorate is the lack of control that residents of retirement villages have over the marketing of their own property when they decide to move out. Of course, it is not really their property; it is generally a lease for life. However, if it is not sold they still end up carrying the costs of ongoing maintenance. It is fair enough that retirement village operators need to charge a fee because it costs them to maintain the unit, even when it is empty. In his second reading speech, the minister indicated that time limits will be provided through regulations on how long a retirement village can continue to charge ongoing maintenance costs after premises have been vacated: six months for existing contracts and three months for new contracts. That is probably a fair compromise. My concern was if maintenance costs were to be charged indefinitely on existing contracts and a limit was to be put on new contracts only, the result would be that village

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operators would sell the units coming under the new contracts first, leaving those under the old contracts sitting high and dry for longer still, so I think the minister's speech indicates that a reasonable compromise has been reached.

An issue to which members have not yet referred—it does not actually come under the bill and does not directly affect the people living in the two retirement villages in my electorate—is the issue of the rebates available to senior citizens for water, local government rates and electricity. Western Australian Seniors Card holders are entitled to these rebates, but because some of the older retirement villages have common water and electricity meters and sub-meters, the residents are ineligible for those rebates. I believe that issue could be overcome fairly easily by village administrators apportioning the rates on a pro rata basis among the individual residents, and they could do likewise for electricity and gas. We could entrust the village operators to actually pass on the rebates, which could easily be audited; that would not be too difficult to do. I hope that that issue can be addressed. It does not generally affect the newer villages because most of them are aware of that situation and have independent water and electricity meters that are read directly by Water Corporation and Synergy respectively.

I think most issues have been covered by other speakers, so I will not delay the house any longer. I will just say that I think this is a very valuable and very welcome piece of legislation, and I look forward to its passage through this house this evening.

DR M.D. NAHAN (Riverton — Parliamentary Secretary) [8.04 pm]: The Retirement Villages Amendment Bill 2012 is a very important piece of legislation for a variety of reasons. It was a long time coming but it should satisfy most of the issues that have been raised by people in my electorate who are either already living in retirement homes or are waiting to get into them. There are quite a few retirement villages in my area, particularly in Rossmoyne, which will be part of the electorate of Riverton at the next election. In fact, there are seven retirement homes in Rossmoyne and Shelley. They are all very well run, and are all run either by religious groups—Southern Cross Care and Adventist Residential Care—or the City of Canning. There are no privately owned retirement homes in the area. Of course, I have visited them all extensively and repeatedly. The issues they raise are numerous and, as other speakers have said, when people go into a retirement home it is often a delicate time of life and a very important decision. They are generally either self-funded or on a pension, and there is usually no going back once the decision is made, so they have to make that decision very carefully. They are also often in the position of not having been well informed about the opportunities and issues in hand, and they need some special guidance on regulatory structures. This bill largely provides that. One of the issues that has been raised is the situation when someone vacates a retirement home and the property is not immediately leased out; the lessee of the retirement unit has to cover the ongoing maintenance costs until it is rented out, and sometimes that takes a long time. This bill effectively addresses that situation.

One of the biggest issues in my electorate is adjustment in the market. There is a shortage of retirement accommodation in the electorate, and as we have heard from other speakers, as the population ages a larger number of people will move into retirement homes. Importantly, retirement villages are not well distributed around my electorate; indeed, most of them are concentrated in Rossmoyne and Shelley, while Parkwood, Riverton and Willetton have no retirement villages. In a debate I heard recently on radio, one of the retirement lobby groups said that there were 5 000 retirement village licences—that is, bed units—undeveloped or unpurchased around the state. At the same time, there are seven vacancies at two very fine Southern Cross Care retirement establishments in my electorate—Margaret Hubery House and Thomas Perrott Village. On one hand we have a shortage of units being built and licences being taken up, but on the other hand we have vacancies in some of these units. When the regulations come down, we should take into consideration the fact that one of the reasons for vacancies at the existing units is the current uncertainty in the housing market; that is, there is a large number of people who want to move into these properties but they have to sell their home first. Because of the cost of moving in, they want to make sure that their house is sold. The current sluggishness in the housing market is inhibiting them from selling or getting the price they want in order to move into a retirement village. That might be one reason it takes a while to turn over these properties, and why there are seven vacancies at Margaret Hubery and Thomas Perrott.

One of the biggest issues that has been raised with me repeatedly by people living in retirement villages is about trying to understand the costs that are charged to them. For instance, Southern Cross Care has adjusted outright the charge to homes numerous times over the past few years. It takes the overhead from Southern Cross generally and applies it to each of the retirement homes and then apportions it to a tenant's bill. Trying to find out what has been done, what the charge is and whether or not it is reasonable, has created a great deal of uncertainty and cost increases in these homes. The Retirement Villages Amendment Bill will give tenants access to adjudication without incurring large legal costs. Accessing such adjudication was the biggest request from

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people in retirement village homes in my electorate. They want independent adjudication about whether their bill is fair, because once people move into retirement villages, they are locked in. They have no choice about moving out; so it is important that things are clear not only before they move in, but also when they become residents and are subject to the process of costing. Even though this bill has taken quite a while to come before Parliament, it was important to have a balance between the needs of those moving into or living in retirement homes. It recognises, as I and many others have, that such people are in a delicate position of life without many opportunities and with limited ability to move out. It creates incentives for non-profit and profit-based organisations to build more homes. It is very important that we get the bill and the following regulations right to ensure not only that we have enough retirement villages in the future, but also that those who live in them are treated correctly.

I commend the government for this bill. It has been a long time coming, but it addresses most of the issues that have been raised. It will be extremely well received in the electorate of Riverton.

MR J.M. FRANCIS (Jandakot — Parliamentary Secretary) [8.13 pm] — in reply: I start by sincerely and genuinely thanking all members who contributed to the debate on the Retirement Villages Amendment Bill 2012 and the Labor Party for flagging its intention to support the bill. Obviously all members of the house agree that this bill is a step in the right direction. I will go through some of the comments made by members in their second reading contributions. I will start with the member for Perth, who was the lead speaker for the opposition. He outlined a lot of issues that were repeated by other members. He started with the demands that we face with an ageing population. Everyone is aware of the census data and the predictions of future demographics within the state of Western Australia. He mentioned the retirement villages in his electorate and he rightly highlighted the issue of disability access codes and the need to keep heritage buildings in order, especially when their purpose is changed. He went through the history of the industry since 1992 and the change in demographics with lots of people moving into single-person dwellings. I suspect his electorate is unique in this respect, because the demographics of Perth are slightly different from the demographics of the rest of the greater metropolitan area. I pass on my sincere condolences for the loss of his aunt Tibby, to whom he referred a number of times during his contribution. He also talked about gay and lesbian catering within the Perth electorate, which has a fairly tight demographic given the geographical area. Obviously, I acknowledge that he has a larger percentage of gay and lesbian people in his electorate than do other parts of Perth. That is the reality. The member for Perth is a great advocate for the people he represents.

Aged people in the community do not want to live in a bedsit. I acknowledge that. The member for Perth asked a number of questions about the legislation. The key question, which was reiterated by almost every speaker, was why the government has not dealt with all the suggested amendments required in one go. The explanation is pretty simple, and it is the same explanation as to why it took so long for the bill to reach this stage. The “Statutory Review of Retirement Villages Legislation, Final Report, November 2010” was tabled in Parliament on 18 November 2010. It contained more than 100 recommendations for change, which is a significant number. The government recognised that including all 100 recommendations in one bill would be complex and time consuming and would significantly delay appropriately addressing some of the major issues facing residents of retirement villages. To gain quicker action on some of the more significant issues, the government decided to implement reforms in tranches—that is, in two bills and one set of regulations. The provisions in this bill are based on some of the important recommendations in the final report and have been chosen to address some of the concerns of residents. They also implement some of the key recommendations made in the Economics and Industry Standing Committee’s report of 2008, which looked into Karrinyup Lakes Lifestyle Village. One of the reforms relates to statutory manager provisions and other reforms relate to a former non-owner resident’s liability to pay recurrent charges. Without doubt those shortfalls are the two key areas of reform that the bill addresses. I think every member who spoke during the second reading debate addressed those issues.

A number of other issues were raised by different members. The member for Armadale spoke about the management and administrative structure of retirement villages. I think he made some fairly obvious remarks that were driven by his experience with, and exposure to, retirement villages in his electorate. The importance of choice for those who wish to retire and move into a retirement village is very important. People can easily buy and sell a home—they have moving costs, stamp duty and real estate agent costs—but when people choose to move into a retirement village they do so knowing they will be there for a large percentage of their life, if not all of it. The exit fees that people sign up to when they enter into retirement village contracts are, in many cases, substantial. As I said by way of interjection, they vary somewhere between 15 per cent and 30 per cent for a unit worth between \$200 000 and \$500 000, which is a substantial amount of money for those who are living on a fixed income, either being self-funded or receiving the pension. It is not as easy for people to move out of

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retirement villages as it is for people to buy and sell homes. Sometimes it is not financially viable for people to do that, which is why the decision as to which village to move into is so very important.

The member for Mandurah spoke about the history of this issue and referred to examples that he has provided in the past. He praised the advocacy of Katie Hodson-Thomas and mentioned the members for Joondalup and Carine who, over the past few years, have been vocal advocates for having this issue addressed and progressed. Like many others, he spoke about the increase in demand for lifestyle accommodation into the future. Mandurah also has a unique demographic. I have always thought of Mandurah as the retirement capital of Western Australia. A lot of people move to Mandurah. As the member for Mandurah said in his contribution, more than 3 000 Mandurah residents—which is between 12 per cent and 14 per cent of the electorate—live in retirement villages. That is a phenomenal statistic, and it reflects the member for Mandurah’s interest in this issue. I thank him also for expressing his support and eagerness to have this bill passed.

The member for Mandurah also reiterated that the key issues are village management and prohibiting certain people from managing villages. I am sure we will go into that in consideration in detail. But I would like to think, having read this bill numerous times now as the parliamentary secretary, that it strikes a fair balance between trying to do the right thing by the residents of retirement villages and ensuring that the people who are managing, or are looking to a career in managing, retirement villages, are fit and proper to do that job. We want the best people possible to look after the most vulnerable in our society, and I think that retirees and the elderly, along with children and the disabled, are, without doubt, one of the most vulnerable sections of our community.

The other issue that the member for Mandurah raised, as did every other member, was recurrent charges. I am confident that all members are pretty much in agreement with the compromise that has come out, with the three-month maximum for new contracts, and the six-month maximum for existing contracts, for a number of different reasons; either way, I am sure we all agree with that.

The member for Kingsley spoke about residents in her electorate. She acknowledged the volunteer officeholders in the retirement villages in her electorate, as did many other members; I think the member for Mandurah did also. These are people who have basically headed off into retirement to enjoy the twilight years of their lives, hopefully for as long as possible, but they offer their services to benefit their local community and their local village, whether they be accountants looking after the club books, or whatever their expertise was in life, because they believe they have something to offer their fellow citizens in retirement. I think it is a great thing that people are willing to put up their hands and help their neighbours in the retirement villages in which they are now living, and they should be commended for it.

The member for Forrestfield again asked why it has taken so long for the bill to get to this point. He also spoke about the need for more nursing homes. That is not quite related to this bill, but I do understand that because of the growing ageing population in this state, we will be requiring not just more retirement villages but also more nursing homes. The member for Forrestfield also spoke, like many other members, about some of the more dodgy village managers that Western Australian has seen over the last 15-odd years. He spoke also about how the challenges of the retirement industry will require a balance to be reached between older and less attractive units in a retirement village, and units that are newer and more modern in design and are fitted out with new appliances and the like. Obviously the market will devalue somewhat those units that are older and less attractive, and the newer and more modern units will attract a higher price. That is something that the market will need to sort out.

The member for Joondalup spoke about his history with this issue. The three members in this house who I know have raised this issue continually are the members for Joondalup, Mandurah and Carine, and I acknowledge their advocacy on this issue.

The member for Gosnells asked why an exemption could be granted for a manager in certain situations. I am happy to go into that in consideration in detail. I do understand that the opposition might be moving an amendment to that particular clause.

Ms M.M. Quirk: Do you want to go into that now, to save you the trouble?

Mr J.M. FRANCIS: I am happy to go into it now, but I will finish with the comments that have been made by members, and I will then come back to that point.

The member for Gosnells also mentioned, much to my happiness, the situation with companion animals in retirement villages. I have the view that that should be sorted out in a similar way to the situation with companion animals in cafes. If a village were to make itself animal free, it would automatically be ruling out a demographic that wanted to move into a village that would allow it to have animals, just as a village that were to make itself animal friendly would be ruling out potential clients who do not want to live around dogs because

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they might have spent the last 20 years living next to a barking dog, or whatever the reason. I think that is something that the market would ultimately sort out for itself. It is certainly a consideration that people would take into account if they wanted to take their cat or their dog into a retirement village. But it is important that we acknowledge the contribution that companion animals make, especially to the elderly, some of whom may have lost their spouse and are now single, and for them their pet is basically their family.

The member for Carine mentioned that in his maiden speech he spoke about the Karrinyup Lakes Lifestyle Village in his electorate. I commend the member for Carine for his continual pursuit of this issue. I also acknowledge, as other members have done, the work of Katie Hodson-Thomas, who I think might have been the first member to raise that particular situation in the Western Australian Parliament. The member for Carine also spoke about what expenses can and cannot be passed on to residents. I think that is worthy of further consideration, and that issue is addressed in this particular bill.

The member for Albany spoke about his experiences with retirement villages in his electorate. He did confess that the older he gets, the grumpier he seems to get. I am not going to argue with him on that. He also spoke about his family's experience with recurrent costs and the reason that he welcomes these amendments to this act.

An interesting aspect that has come out of this debate is the charging of council rates. Apparently in the City of Albany, retirement villages do not pay council rates. I know that the retirement villages in my electorate do pay council rates. I guess that is an anomaly between the regions and the city. I am happy to look at that matter further, but it does raise the point that the residents within the City of Albany who do pay rates are subsidising the costs for people who do not pay rates, and that is worthy of further conversation, just on the balance of fairness. I am not in the business of making it more expensive for elderly people to live in a retirement village, but certainly we need to be fair about how we spread the costs.

The member for West Swan asked a great question. She wanted to know how the Valuer-General assesses gross rental value for retirement villages, and she said that she understands that the GRV for retirement villages is higher due to the additional facilities that are provided in those villages. I do not know the answer to that question. I think that is a question best addressed to the Valuer-General, and I would be happy to pass on that particular question for further information.

The member for West Swan talked also about the role that the state has to play in providing more low-cost housing for seniors. This might be a timely opportunity to place on the record our appreciation for another level of government in Western Australia that is doing by far the most to address the shortfall in the number of retirement villages, and that is local government. I know that as the member for Jandakot I am often banging on about local government expanding its role. But my experience with local government is that the City of Cockburn is opening next week a retirement village in the suburb of Aubin Grove, and the City of Melville is also looking at expanding its operations in this area. Local government is very aware of the concerns and the demands that are being placed on this segment of our community, and I think it is in step and is going out of its way to try to address that issue to the best of its ability.

The member for West Swan also raised some issues about the Water Corporation and a particular facility in her electorate, and said that if some money was invested, some land could be freed up for a purpose such as building a retirement village. I am unaware of that issue, and I would suggest that the member address that question to the Minister for Water.

The member for Southern River spoke about the lack of control over the marketing of retirement units in retirement villages, and the concern of his constituents about the selling of a unit once it has been vacated. There is a balance at play here. This bill will make it a lot more profitable to some extent for retirement villages to get on with it and get empty units refurbished and back on the market and sold as quickly as they can, for the fairest price they can. The three-month and six-month restrictions on the charging of recurrent costs will go a long way towards getting them to pull their finger out and get on with it. I share the belief of other members who have raised this issue that three months is more than long enough to recarpet and repaint a unit and get it on the market. Any operator who thinks they need more than three months is probably letting the side down a little.

The member for South Perth also raised an interesting issue about the rebates the state government offers to seniors on utilities, and the fact that there are older retirement villages that do not have individual metering on their units for water, gas or electricity. There is one in my electorate in Bibra Lake that has one main meter that goes in. Individual accounts are sent to the individual premises but they do not have individual water meters, so they cannot claim the rebate to which seniors are entitled. It is a good question. It is something we should look at further to see whether there is a way to move forward and give everyone a fair go when it comes to rebates for seniors.

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Finally, the member for Riverton spoke about the recurrent charges and the shortage of retirement units in his electorate. He is spot-on about the pressures of an ageing demographic as far as a lack of units is concerned. That is going to have two impacts; first, people will have to wait to move into a unit that best suits them for potentially the rest of their life, and, second, the price of these units will go up. It is all about the market sorting out the balance. Profit is not a dirty word. A lot of not-for-profits go into this industry, but others go into this industry to make some money for their shareholders and investors, but by all means there should be limits on how much they can take advantage of elderly people in Western Australia.

The member for Girrawheen spoke about the barriers to who can and cannot be placed in positions of administration within these businesses. I am informed that the following people will be prohibited: a person who is bankrupt or whose affairs are under insolvency laws; a person who has been convicted of an offence involving violence to another person, fraud or dishonesty punishable on conviction by imprisonment for not less than three months, or under chapter XXXI of the Criminal Code, which covers sexual offences; a person who is disqualified from managing corporations under part 2D.6 of the Corporations Act; and a person who was the director of or concerned in the management of a corporation when it was involuntarily wound up. The provisions have been future-proofed by including a mechanism for regulations to prescribe offences or persons subject to prohibition. It is not currently proposed that regulations will prescribe additional offences or prohibited persons. This is similar to an issue raised by the member for Forrestfield, who questioned why this is not future-proofed. My reflection is that it clearly is. It would be possible for a director of a company to be a prohibited person under the provisions. The prohibitions capture persons who were involved in the management of a corporation when it was wound up, as I said, other than voluntarily—that is, if they were a director, secretary or officer at the time. This includes people who participated in substantial decisions of the corporation; people who had the capacity to affect the corporation’s financial standing in accordance with whose instructions the directors were accustomed to acting; and persons who have been disqualified from managing corporations, such as those who have been disqualified from being a director, secretary or other officer for a variety of reasons such as being convicted of offences relating to their role as an officer or having contravened certain provisions of the Corporations Act. Whether the director of a company is a person indirectly concerned in the administration of a retirement village will be a question of fact in each case depending on the decisions taken by the company and the extent to which these relate to the administration of the village in the context of the Retirement Villages Act. It may be that a company investment under a policy under which the director is prohibited is absent from any meetings that involve the administration of the village, so that the director is not involved in decisions relating to that village, or to the extent that an administering body is unsure as to whether it may be contravening a provision, despite putting a policy in place, the provisions will enable the entity to seek an exemption from the commissioner for the person of interest.

To make it pretty clear, there is a major contributing factor for this provision; that is, when this act comes into force, if there is an administrator of a village right now who may have committed something that may rule them out under this but they are doing an absolutely awesome job, have all the support of the residents and have not done anything wrong for years, then we need a little escape clause so that there can be some discretion for the commissioner.

Ms M.M. Quirk: That was the issue I raised during the second reading debate. There may well be people who are currently, as you say, doing a good job and who would fall foul of proposed section 77B and, therefore, it would be necessary to have a transitional provision. But proposed section 77C is not a transitional provision; it in fact is prospective. In other words, people who want to be involved in the administration of a retirement village in the future are also covered by this exemption clause.

Mr J.M. FRANCIS: That is right, but there is a transitional provision. I will get to that in a second. There are two situations here. There is the fact that there might be someone who just fell short of the requirements and who is currently the manager of a retirement village in the state of Western Australia or there might be someone who wants to be one after the commencement date of this legislation. They would have to apply and the commissioner would have to look at that on a case-by-case basis.

Ms M.M. Quirk: What is the rationale for that? Surely we should have high standards in this regard.

Mr J.M. FRANCIS: Absolutely. If I owned a retirement village, I would want people of impeccable character who would have the ability to relate to senior residents and to manage finances and who would also have an all-round touch of commonsense in managing a retirement village. Certainly, if I owned a retirement village, I would not be looking to employ someone in that position who had a record that would mean they would have to jump through a certain number of hoops before they could even start in that role. This is predominantly to cover the people who are there at the moment. I have been given a couple of examples that I am happy to pass on. For

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example, it could be someone of exemplary character, reputation and management skills. Four years ago a person was convicted of an offence involving a small amount of violence to another person and that person served a short time in prison. This person has been able to provide evidence that at the time of his conviction and imprisonment he had undergone severe stress due to personal circumstances, including marriage breakdown, the loss of his home through stressful divorce proceedings and emotional issues. This person might have been fortunate to find employment as a manager at a retirement village shortly after his release—this is hypothetical. It was later found that this person had an affinity for working with older people and his life has been turned around for the better. In this person's application for exemption he attaches a petition from over 100 residents of that village saying he is of great character, he is doing an awesome job, that the village has never been run better and that this person has turned the community around. Should this person be given an exemption? I would argue that, in certain circumstances, there might be a case that this should be considered, especially when my default position is always to be cautious of what is effectively retrospective legislation. I know this does this as far as the six months is concerned—I am very aware of that—but also do we want to rule someone out and have them lose their job when for the last three and a half years they have been doing a brilliant job?

Ms M.M. Quirk: I can understand the transitional issue, I just have a problem with people who have not been involved in the industry and who seek to be involved in the industry. I do not think we should be making any exceptions for them whatsoever.

Mr J.M. FRANCIS: Okay. The member has the right to make that argument.

Ms M.M. Quirk: I just can't understand why you need to do it. I am having trouble working out the rationale for this. It is not even in the explanatory memorandum.

Mr J.M. FRANCIS: Because there may be unforeseen situations and circumstances in which someone has been caught, through no fault of their own, by what is a fairly strict requirement to rule out unsavoury people from running retirement villages, and so they should be. Perhaps they just happened to hold an office in a business. I went through the disqualifications previously. They fell into that category and were ruled out, but they still do an outstanding job at managing a retirement village. Someone could have been the manager of a corporation when it became insolvent and was wound up; should they be ruled out as well three years later? They might be the ideal person we want to manage a retirement village.

In closing, I once again thank all members for their contributions to this to debate. It is something we as a Parliament can do that will deliver a very real, rewarding and meaningful benefit to the elderly people of Western Australia. I think it is a great thing that we can agree to move forward with this as soon as possible, regardless of the delays that have happened. I again thank all members for their contributions.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 10 put and passed.

Clause 11: Sections 23 to 25 inserted —

Mr D.A. TEMPLEMAN: This clause goes through a range of matters relating to recurrent charges payable by former residents. Page 8 of the bill states that —

former resident means a former resident of a retirement village who has permanently vacated residential premises in the retirement village and who does not have an interest —

I know that the cap issue—three months and six months—is to be regulated, so it will still be delivered via regulation. The query I have is on exactly when that period commences.

Mr J.M. Francis: The start date, yes.

Mr D.A. TEMPLEMAN: This is a letter from a Mrs J. Worthy of Settlers Lakeside Village in Ravenswood. I will read it to the parliamentary secretary, if that is all right. Her letter states —

As residents living in a retirement village, you can appreciate our concerns regarding some of these amendments. It would appear the issue in relation to the amount of time out going residents have to continue paying *Ongoing Charges* has the potential to be capped at 6 months for existing residents and 3 months for new contracts.

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Her clarification or question specifically is—the parliamentary secretary could perhaps point to it in this clause or give some indication —

... clarification is urgently needed to establish when that 6 month period begins. Is it when a departing resident has handed over the keys thus establishing vacant possession and giving Operators the opportunity to refurbish or is it at the completion of refurbishment?

Or is it at the point of the signing of a departure contract or whatever? Can the parliamentary secretary clarify for us exactly when the proposed six months would commence; and, of course, for new contracts, when the three months would commence? I hope I am in the right clause. I can see the parliamentary secretary is still conferring. This is an important point because, obviously, if there is any conjecture, I would not like to see it left to, “Oh, at this retirement village it is from when you hand in the keys”, whereas in another one it is when the refurbishment has been completed. Can the parliamentary secretary clarify that for me, and particularly Mrs Worthy and others who have asked that question?

Mr J.M. FRANCIS: I refer the member for Mandurah to page 9 of the bill. Proposed new section 23(3) states —

Subject to subsection (4), a former resident’s liability to pay recurrent charges —

- (a) begins when the residential premises have been permanently vacated by the former resident; and
- (b) ceases in accordance with the regulations.

If the member turns to page 8, the definition of “permanently vacated” reads —

... in relation to a former resident and residential premises in a retirement village, means that —

- (a) if required by the residence contract — the administering body has been given notice of the former resident’s intention to vacate the residential premises; and

Importantly, that is “and” —

- (b) the goods and belongings of the former resident have been removed from the residential premises; and
- (c) the former resident has ceased to reside in the residential premises; and
- (d) the right to exclusively occupy the residential premises has been given up by the former resident (or, if the former resident is deceased, by the estate of the former resident) by returning the keys to the residential premises to the administering body;

I hope that answers the member’s question.

Mr D.A. TEMPLEMAN: Okay, yes, but is that allinclusive or if only one of those applies? Does the person have to fulfil all four requirements for the cap date to commence? A former resident may, for example, have left and gone into a nursing home and their stuff might still be in the premises but is in the process of being cleared out by a son or daughter. In that respect, yes, the former resident has ceased to reside in the premises; however, they might still have the key and they might still have stuff there. I am not trying to be difficult here; I am just trying to be very clear so that I can tell the Mrs Worthys of the world, “Right; as soon as you’ve done blah, blah, blah, that is the date the six months commences”—or the three months commences if it is a new contract. Will that be in writing? I am interested to know whether a piece of paper will state, “Mrs Worthy, officially, according to the act, vacated the property on 9 December 2012.” We would then know very clearly that from 9 December 2012 the six-month cap, or indeed the three-month cap if it is a new contract, applies. This is an important matter so that people are very clear when that time commences and what they are then liable for from that point.

Mr J.M. FRANCIS: Certainly. The four proposed subparagraphs have “and” at the end of them; they are allinclusive. All four of those conditions have to be met. If the member is talking about a constituent who lives in a retirement village at the moment, this will change that to six months once all four conditions are fulfilled, and that will leave her in a much better position than she would have been in if this has had not been the case.

Clause put and passed.

Clauses 12 to 14 put and passed.

Clause 15: Section 57A inserted —

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Ms M.M. QUIRK: I refer to clause 15 and the insertion of proposed section 57A, which relates to “Disputes in relation to recurrent charges or levy payable by residents”. This is something that I raised during the second reading debate. Firstly, what is the rationale for residents being able to make an application to the State Administrative Tribunal only if a special resolution is passed at a meeting of residents? Why is a simple majority not considered sufficient?

Mr J.M. FRANCIS: My advice is that the Retirement Villages Amendment Bill provides that residents as a group may challenge unfair cost increases, for example, in the State Administrative Tribunal. The bill requires a special resolution of residents before such an application to SAT can be made. Passing a special resolution does not need to be unanimous. In practice, to pass a special resolution requires about a quarter of the total number of residents in the village to agree. The requirements for passing a special resolution are specified in the Retirement Villages Code. A special resolution requires a quorum of residents to be present at a meeting called by a village operator and for the resolution to be supported by at least 75 per cent of those present. That could be quite a small number in reality, especially for some of the smaller villages. Residents are also able to vote in person or by proxy if they need to. The quorum required depends on the number of residents residing in the village. If the village has more than 10 occupied premises, the quorum consists of either a minimum of five or 30 per cent of the residents entitled to vote, whichever is greater. If the village has fewer than 10 occupied premises, a quorum consists of the majority of residents who are entitled to vote. If two or more residents occupy the same village in a unit, unless their contract provides otherwise, both of them are entitled to vote. For example, if a village has 100 residents, 30 residents would have to attend the meeting and if 23 turned out and voted in favour, the 75 per cent threshold would be reached and the resolution would be passed.

Ms M.M. QUIRK: I have two other questions on that clause. The first relates to whether it is the management or the administration that has to convene the meeting or can it be convened in the instance of the residents?

Mr J.M. FRANCIS: Management must call the meeting, but residents can petition a meeting and the management then has to call a meeting. There is a way for the residents to force the hand of management to hold a meeting.

Ms M.M. QUIRK: Can the residents petition a meeting in accordance with the code that the parliamentary secretary is referring to?

Mr J.M. Francis: Yes.

Ms M.M. QUIRK: Also on that point, my understanding is that the code that is applicable to this legislation has expired and an interim one is in force; is that correct?

Mr J.M. Francis: That is the case.

Ms M.M. QUIRK: Is it the position that the government intends to have a new less-than-interim code attaching this legislation shortly; and, if so, what is the time frame for that?

Mr J.M. FRANCIS: I am advised that the Fair Trading Act 2010 requires this code to exist in one form or another. At the moment there is obviously the interim code. Part of the Fair Trading Act requirement is that there must be consultation before a new code can be implemented. At the moment we have an interim code. There may even be a requirement to have another interim code depending on how long that will take. At this point in time I cannot give the member an indication of how long that will be, but a code must be in force, whether it be a full-time code or an interim code —

Ms M.M. Quirk: From the parliamentary secretary’s response can I infer that the code expired because that consultation requirement had not been met soon enough?

Mr J.M. FRANCIS: The reality is that the code is dependent on certain aspects of these amendments to the legislation. It would have been pointless to do it knowing that this would change.

Ms M.M. Quirk: It expired because this legislation took longer than the parliamentary secretary would have thought to get in.

Mr J.M. FRANCIS: Yes.

Clause put and passed.

Clause 16 put and passed.

Clause 17: Sections 76 to 77C inserted —

Ms M.M. QUIRK: I move —

Ms Margaret Quirk; Dr Tony Buti; Mr David Templeman; Ms Andrea Mitchell; Mr Andrew Waddell; Mr Tony O’Gorman; Mr Chris Tallentire; Mr Tony Krsticevic; Mr Peter Watson; Ms Rita Saffioti; Mr Peter Abetz; Dr Mike Nahan; Mr Joe Francis; Mr Bill Johnston

Page 29, line 1 to page 30, line 3 — To delete the lines.

We heard the parliamentary secretary’s explanation for why the so-called exemption of people otherwise unfit to act in the position of administering a retirement village is in the bill. I have to say that he has failed to convince me in the sense that I can understand why there would be transitional provisions so that people currently in jobs and performing their duties well and without any complaint should remain in those positions, but I am not convinced on whether there should be some prospective provision that enables people not currently in a job in a retirement village, despite having some of these impediments, to still be employed. That is a real problem. If, for example, proposed section 77B had the fitness for purpose—it might be better if the parliamentary secretary waits for me to finish and then he will know what he has to answer.

Mr J.M. Francis: I am with the member for Girrawheen.

Ms M.M. QUIRK: If, for example, in proposed section 77B there was a right for someone to appeal against a decision that they are not a fit and proper person, that would have a level of transparency about it.

But our major issue is that this is effectively done by the commissioner and people will not necessarily know that that exemption is there. For example, a person given such an exemption should have to display it on the wall of the retirement village. There is a lack of transparency. If people wanted, for example, to make inquiries about whether an exemption exists in relation to staff members of the facility, again, it is probably a matter of making a freedom of information request to the commissioner or whatever. It is just unsatisfactory. This should be so above board and no question should arise of anyone’s competence, integrity or fitness to serve in those positions. This provision makes it all very grey.

Mr J.M. FRANCIS: As we know, this bill includes an exemption process that covers extenuating circumstances that would make it unreasonable for a person to be barred or excluded from being involved in the operation or the management of the village. An exemption may be sought in relation to persons or individuals who, as we know, may already have been involved in administering a particular village; it is the transition side of it.

Ms M.M. Quirk: Okay; that is not a problem.

Mr J.M. FRANCIS: It is fine. This comes down to the argument about whether it is okay in exceptional circumstances for the commissioner to grant an exemption at the moment. Should it not be okay, can the commissioner grant an exemption in exceptional circumstances for that to happen in 10 years for someone who may want to enter the industry and who may have all the qualifications to be an outstanding village manager, bar one hiccup in the past? Our argument is that we should allow the commissioner to have some leeway in giving exemptions to people because of unfortunate circumstances.

Ms M.M. Quirk: Did you have any representations from industry on this matter? It just seems a very strange provision and I really have some difficulty discerning why it was put in the bill.

Mr J.M. FRANCIS: I have not seen any representation—I am not saying the government has not had any, but I have not.

Ms M.M. Quirk: It looks as though your adviser is nodding.

Mr J.M. FRANCIS: I will take their advice in a second. I have not seen any representation, but I am not saying that it does not exist.

The provision may also be needed in the future in relation to a new director on the board or administrative body of a retirement village. A company could own a retirement village and appoint someone to its board who may have had some hiccup in the past that is inconsequential to that person’s ability to be a great contributor to the running of a retirement village.

Mr W.J. Johnston: Could you give an example of that?

Mr J.M. FRANCIS: Certainly, I did that before, and I am happy to find another one. An example the department has put up is that three years ago, Rhonda Brown—a hypothetical Ms Brown—was a manager in a corporation when it became insolvent and was wound up. Although Ms Brown was part of the management team and made certain financial decisions that influenced the financial direction of the company, she was able to demonstrate to the commissioner—she may be able to do so in the future—that the area of financial control that she held had nothing to do with the company’s financial demise. Therefore, it was just an unfortunate circumstance at the time. Should she not be qualified to be a retirement village manager in the future? If the hiccup of the past is so inconsequential that it does not bear any reflection on her ability to manage or be involved in the management of a retirement village in the future, there should be some little release valve or

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mechanism for the commissioner to take this into consideration and say that that person is still fit and proper to do this job.

Ms M.M. QUIRK: Minister—sorry, parliamentary secretary; I keep doing this; it is a terrible Freudian slip! The parliamentary secretary has not addressed the issue of transparency. If I were a resident of a retirement village, how would I know that Fred Nerk was subject to an exemption? I think that is worthwhile to ask. Secondly, would the parliamentary secretary not concede that it is just part of life in the big city that there are certain occupations that, for some reason, because of someone’s personal circumstances, a person is not permitted to go into. For example, if someone wants to be admitted as a lawyer, they cannot, for example, have had a conviction as a bank robber. That is fair enough. Similarly, if, when I left Parliament, I wanted to apply for a job as an inspector for custodial services, I would be precluded under that legislation from applying. All those restrictions are in legislation for some reason. In this situation those criteria are in legislation for very good reason; that is, to protect elderly, and in some cases vulnerable, people. It seems to me that this backdoor way of the commissioner issuing the exemption without anyone even necessarily knowing is quite concerning.

Mr J.M. FRANCIS: The bill provides that the commissioner may grant an exemption only if he or she is satisfied that the welfare or financial interests of the residents will not be at risk if the person is granted an exemption. So, the commissioner must be satisfied of that—point one. Exemptions may be granted by the commissioner subject to the conditions or directions that they may see fit to impose, which may include a limitation on the period of the exemption’s effect. The commissioner will develop guidelines for the exemption process and these guidelines will be made public so that the process will be crystal clear.

Ms M.M. Quirk: The guidelines will be, but not the exemptions.

Mr J.M. FRANCIS: The guidelines will be made public. Decisions will not be made public for privacy reasons. The administering body of the villages or village that would be impacted by the decision will be informed of the commissioner’s decision and any reasons for the decision. We do not want to prejudice or impugn the capacity of a person to do their job in the future. This has to be kept in perspective. This is not someone who has applied for an exemption because of a fairly heinous thing they have done. We are not talking about naming and shaming paedophiles here; we are talking about people who may just have a small, minor mark on their record and who some time in the future want to move into the retirement village industry. If the commissioner thinks that that mark is inconsequential to that person’s ability to manage a retirement village, that will be the commissioner’s decision.

Ms M.M. QUIRK: Regarding the mechanics of how this will work, say someone has, for example, a conviction for assault and wants to become involved in the administration of a retirement village. He goes to the commissioner and says that the incident was a drunken brawl that happened when he was a student or something, but it is in fact something committed a couple of years previous to his making the application and is related to some anger management issues. I do not know how much information the commissioner will require. Although he has to satisfy himself, does he document that? Further, even though the commissioner may impose conditions on people, how can people inquire as to whether those conditions even exist? Frankly, they would not bother to do so unless they knew there was an exemption in force.

Mr J.M. FRANCIS: For assault, for example, the commissioner will require more than the word of a particular individual. They would have to look at the case history, I am sure. The commissioner, as I said, will develop guidelines as to grounds for considering these applications, and those guidelines will be made public. It is not just Fred Nerk going up to the commissioner and saying, “You know; I got charged with assault a couple of years ago when I was drunk on Rotto, but I am a better person now. Can I please have an exemption to run that retirement village?” The commissioner would want to look at that case in some detail to satisfy himself, and I guess, as individuals, we have to have some faith in that process.

Mr C.J. TALLENTIRE: I wonder whether the parliamentary secretary has considered that this would in fact be a protection to that person who has supposedly committed a fairly minor offence, but would have it known in the general community that they have had to apply for an exemption. Therefore, they would have that pall cast over them, but people would not actually know the nature of the offence. This reinforces the member for Girrawheen’s suggestion that we need some degree of transparency about things; otherwise, those people will be subject to some kind of rumour.

Mr J.M. FRANCIS: The member is espousing that we punish someone twice.

Mr C.J. Tallentire: Not at all.

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Mr J.M. FRANCIS: Someone might have been charged and convicted with assault and moved on in life. As I said, these are not people being tracked by a global positioning system because they have committed a fairly serious offence; these could be minor issues. A couple of years later, having served the penalty dished out by the court, that person might decide to get involved in the retirement village industry, in a role that is totally unrelated to whatever offence the person committed, because he believes he can make a worthwhile contribution to society by helping elderly people enjoy their lives by managing a village and being part of the community. The member is suggesting that that person should again go through the process of being almost publicly shamed because of an offence he has already paid the price for. I suggest that the fairest thing to do is to let them get on —

Ms M.M. Quirk interjected.

Mr J.M. FRANCIS: The member may be talking about someone who committed an offence such as a drunken assault on Rottneest when they were younger but who has since finished an accounting degree and wants to work as an accountant in an administrative role in a retirement village, where they will not even interface with the residents or have anything to do with them. The prior offence is not relative to that person's particular role in the retirement village organisation. I am not entirely convinced that if they have done their time and moved on, there are not circumstances in which they can be exempted.

Mr C.J. TALLENTIRE: I am not sure whether the parliamentary secretary understood what I was saying. To continue the example of someone who had a conviction for an assault, it would be a matter of public record and it would be known to people that the person had applied for an exemption. Why would we not be transparent about the fact that they have received an exemption?

Mr J.M. FRANCIS: My understanding is that the criminal record of the young drunken yobbo who threw a punch at Rottneest Island and has faced court is not a matter for the public record unless someone happened to be at the court on the day of the hearing and made a note of it.

Mr C.J. Tallentire: It might have been reported in the papers.

Mr J.M. FRANCIS: It might have been. That is fine. I can promise the member that an awful lot of cases go through the legal system in Western Australia, as the member for Girrawheen would know, and the majority of them do not get reported in the papers and are not in the public domain. In certain job applications—the member for Girrawheen referred to this—there are limitations on a person's employment. There certainly are limitations on who can be a member of Parliament depending on the person's background. There are no waivers for that in the Constitution, but we are talking about people who may be doing a job in a retirement village that does not require them to interface with the residents. A bit of leeway should be given in exceptional circumstances. At the end of the day, the commissioner will not make a decision that will put the health, welfare, safety and security of elderly people at risk.

Mr W.J. JOHNSTON: I am not quite sure that the parliamentary secretary's explanation applies to the words that we are dealing with. I refer the parliamentary secretary to proposed section 76(1)(a), which states —

a person who is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws;

Under what circumstance would that be okay? Given that that is the exclusion, what is the argument about the inclusion? I do not understand. Can the parliamentary secretary explain why an insolvent person would be provided with this benefit?

Proposed section 76(1)(b) states —

a person who has been convicted, within or outside Western Australia, of —

- (i) an offence involving violence to another person punishable on conviction by imprisonment for not less than 3 months;

Under what circumstance in which a person has been convicted under that provision would it be okay for that person to be employed in a retirement village?

Proposed section 76(1)(b)(ii) states —

an offence involving fraud or dishonesty punishable on conviction by imprisonment for not less than 3 months;

Under what circumstance would that be okay?

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Proposed section 76(1)(b)(iii) states, “an offence under The Criminal Code Chapter XXXI” et cetera. When would any of these things be okay, given that we are saying in the bill that these are the things we want to protect people in the villages from? I do not understand the argument about privacy. All the decisions of the court are public. Whether or not they get reported is a separate issue; they are all public. If an employer asked an employee to undergo a police clearance, these things would show up. It is not like these are secrets. Surely the residents of the village are entitled to know who is administering the affairs of the village. If the parliamentary secretary is saying that the exemption would be made available to them—that is my understanding—and a certificate is issued under proposed section 77C, the people in the village will know that.

Mr J.M. Francis: No, only the administrators of the village would know.

Mr W.J. JOHNSTON: That means the people in the village will not get to make a decision about whether they think that is a good idea. The only reason that we are regulating this is that it is important. The parliamentary secretary is saying that, even though it is important enough to regulate it, we will provide a secret exemption and the people in the village will not know that the exemption has been given. Someone might be an undischarged bankrupt. For whatever reason, which the parliamentary secretary has not yet outlined, the commissioner can allow that person to be in the administrative body but the people in the village will not know. That is a very serious issue. I am not quite sure that the parliamentary secretary has properly explained the sorts of circumstances that will allow someone who is a bankrupt and is excluded by proposed section 76 to be included under proposed section 77C. This deserves more than just a comment from the parliamentary secretary that we should just have this provision. The parliamentary secretary must outline why we should have this provision; otherwise, why is proposed section 76 there? It does not flow.

Mr J.M. FRANCIS: I will keep this fairly black and white. There are generally two types of people who work in the administration of a village. The first type is the people who have direct involvement and contact with the residents of the village and the second type is the people who run the financial side of it from a different location than the physical premises. The person who was involved in the Rottnest Island biff could now be an accountant and would be able to run the books for a retirement village without having any contact whatsoever with the residents. It is unreasonable to penalise someone of that sort from being considered for that role in the future. The commissioner will have clear and published guidelines about what he will take into consideration when he makes that decision. Likewise, the manager of a village who has daily contact with every single one of the residents may have a particular mark on his record that has absolutely no relevance whatsoever to his job. What I am concerned about, and what the thrust of this proposed section is meant to do, is preventing someone from working in the industry who has a known history and record of aggravated assault against elderly people. Certainly we do not want that type of person having day-to-day contact with or being anywhere near vulnerable people in a retirement village. It is about striking a balance. Sometimes there may be very reasonable cases when the commissioner must take certain things into consideration and grant an exemption.

Ms M.M. QUIRK: That is fine; I can understand the argument that the parliamentary secretary is making, but there is the problem that the residents of the particular village will not be aware that that exemption exists and is in place. Similarly, they will not be aware of the conditions granted with the exemption. Thirdly, I suspect that if they made a freedom of information application to the commissioner for a copy of any exemptions relating to the village, they would be refused. How is it that the privacy of these people, who frankly are getting in by the skin of their teeth, is more important than the safety of the residents of the village?

Mr J.M. FRANCIS: Firstly, I do not think it is right for the member to say “getting in by the skin of their teeth”. They may be exceptionally well qualified people with all the qualifications in the world to be the financial manager of a retirement village, but just happened to have had that little unfortunate incident on Rottnest. They are not dealing directly with the residents of the retirement village. That is not “by the skin of their teeth”; that is finding the best person to do the job for the people who own and operate the village because they want to run a great village for all the residents. They are going to want to get the best staff possible; that is just the nature of the job market.

Secondly, as I have said before, I have faith that the commissioner would not allow an individual whose record is such that they can only get in “by the skin of their teeth”, as the member puts it, to interact with the residents of a retirement village. He is not going to put them in danger; it is just not going to happen. Similarly, if we look at the assault situation, I would not think it appropriate for the commissioner to consider giving someone who has been convicted of embezzling money or running rip-off schemes a role as the financial manager of a retirement village. However, sometimes the offence is in no way related to the role that they will perform at the retirement village, and if the commissioner thinks it is appropriate to make that appointment and it is not going to put any of the residents in jeopardy or danger, then it is worth considering.

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Ms M.M. QUIRK: I will not prolong this issue; we want to take this to a vote. I will say that the parliamentary secretary seems to be gilding the lily by saying that it is only really those who are directly involved in the administration of a retirement village who will influence the commissioner’s decision. Proposed section 77C(1)(b)(ii) makes reference to a person being either directly or indirectly concerned with the administration of a retirement village, so that would seem to be broader than the assertion that the parliamentary secretary is making and to include someone who is only tenuously involved in the administration of a retirement village.

Mr J.M. FRANCIS: I will read for the member for Girrawheen the relevant passage from the explanatory memorandum. It states —

The words “directly or indirectly concerned in the administration of the village” are intended to capture the range and variety of corporate structures that can apply with retirement villages. For example, it may be that a person on the board of a company that owns the retirement village is a prohibited person. Whether that person will require an exemption certificate will depend on the decisions that the board makes in relation to the administration of the retirement village and the level of influence the person has in relation to the decisions of the board.

Amendment put and a division taken with the following result —

Ayes (18)

Ms L.L. Baker	Mr M.P. Murray	Mrs M.H. Roberts	Mr M.P. Whitely
Ms J.M. Freeman	Mr A.P. O’Gorman	Mr C.J. Tallentire	Mr B.S. Wyatt
Mr W.J. Johnston	Mr P. Papalia	Mr P.C. Tinley	Mr D.A. Templeman (<i>Teller</i>)
Mr F.M. Logan	Ms M.M. Quirk	Mr A.J. Waddell	
Mrs C.A. Martin	Mr E.S. Ripper	Mr P.B. Watson	

Noes (25)

Mr P. Abetz	Mr M.J. Cowper	Mr A. Krsticevic	Mr D.T. Redman
Mr F.A. Alban	Mr J.H.D. Day	Mr W.R. Marmion	Mr M.W. Sutherland
Mr I.C. Blayney	Mr J.M. Francis	Mr J.E. McGrath	Mr T.K. Waldron
Mr J.J.M. Bowler	Dr K.D. Hames	Mr P.T. Miles	Mr A.J. Simpson (<i>Teller</i>)
Mr I.M. Britza	Mrs L.M. Harvey	Ms A.R. Mitchell	
Mr G.M. Castrilli	Mr A.P. Jacob	Dr M.D. Nahan	
Mr V.A. Catania	Dr G.G. Jacobs	Mr C.C. Porter	

Pairs

Mr J.N. Hyde	Mr B.J. Grylls
Mr M. McGowan	Mr T.R. Buswell
Ms R. Saffioti	Mr R.F. Johnson
Mr R.H. Cook	Mr C.J. Barnett

Amendment thus negated.

Clause put and passed.

Clause 18: Section 80 amended —

Mr C.J. TALLENTIRE: I am keen to know the rationale behind the penalty regime that is being applied here; I notice that it is around \$20 000. Given that in many cases people would be earning an annual income of perhaps \$70 000 to \$80 000, why is it seen to be dissuasive that they would run the risk of a \$20 000 penalty? I would like to know the rationale for that penalty.

Mr J.M. Francis: Can the member for Gosnells please explain which clause he is talking about?

Mr C.J. TALLENTIRE: Clause 18 proposes to amend section 80 of the act by deleting the words “2 years” and inserting the words “3 years”. If the parliamentary secretary can clarify why that change has been made, I will find the clause that refers to the penalty change.

Mr J.M. FRANCIS: I am advised that three years is consistent with the Fair Trading Act.

Clause put and passed.

Clauses 19 and 20 put and passed.

Clause 21: Schedule 1 Division 2 inserted —

Mr D.A. TEMPLEMAN: I seek some clarification. This clause proposes to insert a new division 2 into schedule 1 of the act. Proposed section 5 of division 2 refers to transitional regulations. My understanding is that

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those regulations relate to the transition of these amendments to the existing act. This comes back to an earlier question that I asked. Once these amendments are passed by the Parliament, when is it expected that the regulations that have been referred to in the bill will come into effect? When can I tell the people in the retirement villages that I represent that we have passed the Retirement Villages Amendment Bill, and some of the key concerns that those people have raised with me, including the capping of recurrent fees, et cetera, will become law through the regulations that are proposed? What is the timing for that?

Mr J.M. FRANCIS: I am advised that the process of consultation for the new regulations is underway as we speak; that process has already commenced. I expect that the regulations will come into force at about the time of the proroguing of Parliament—so roughly one month before the state election on 9 March, or not long after that. I guess the answer is: as soon as possible. That is the expected time frame.

Mr D.A. TEMPLEMAN: Just as a further point of clarification, given that between now and then there will be ongoing sales in retirement villages of vacant units that become available, what implications will that have for owners and managers of retirement villages to ensure that buyers are well and truly aware of the amendments and changes that we have made tonight, and what implications will that have for existing and future contracts in that interim period?

Mr J.M. FRANCIS: Good question, member for Mandurah. I suggest that if this bill goes through Parliament tonight, and the regulations do not come in until, let us say, February, which is some four months from now, and if the member for Mandurah was running a retirement village and he did not specify three months in a contract from tomorrow on, he would not be able to sell a unit in that village, because people will wait, and there will be a lull in the market. So I encourage retirement village operators to get on board now, rather than wait for the regulations to enforce the limit of three months, because I expect prospective buyers to wait for four months so that they can buy a unit with a three-month cap rather than buy a unit now with a six-month cap. So I expect the industry to sort this out first thing tomorrow by itself.

Mr D.A. TEMPLEMAN: I am not sure whether the parliamentary secretary has an adviser here from the department. But it was reported to me some time ago that the department may not have a comprehensive, up-to-date and relevant list of all the retirement villages and complexes in Western Australia that are essentially governed by this bill. Can the parliamentary secretary clarify that through one of his advisers?

Mr J.M. FRANCIS: I am advised that one of the things that the Seniors' Housing Centre has done is compile an exhaustive, extensive and accurate list. That list does exist, and it is held by the Department of Commerce.

Mr C.J. TALLENTIRE: Just to follow up on the point that has been raised about the Seniors' Housing Centre, I am curious to know how much additional funding will go to that body so that it can do things like generate this list that the minister has just mentioned.

Mr J.M. FRANCIS: I am happy to take that on notice. I cannot answer that question. I am not responsible for that side of the portfolio, obviously. I will get the member an answer, but it is not going to happen now.

Clause put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR J.M. FRANCIS (Jandakot — Parliamentary Secretary) [9.38 pm]: I move —

That the bill be now read a third time.

MR D.A. TEMPLEMAN (Mandurah) [9.38 pm]: Very briefly, as has been highlighted through the consideration in detail stage of the Retirement Villages Amendment Bill, we have clarified a number of the concerns that have been raised. I was particularly concerned about the start dates and timing for this act. As promised by the opposition earlier today, we have ensured that this bill will pass the Parliament tonight.

I want to acknowledge Shirley and Patrick Wyburn who have been in the public gallery throughout the debate in this chamber. Both Patrick and Shirley have been involved with the Western Australian Retirement Complexes Residents Association for many years, with Patrick being a past president. I again congratulate them and past and present members of WARCRA for the work they have done.

This process of seeing the bill through the Parliament has been, as a number of members mentioned in their contributions to the second reading debate, quite a prolonged process, but one thing it has done is ensure that people who are living in retirement villages in Western Australia have in fact become much more aware of their

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circumstances and, indeed, the legislation that oversees their particular accommodation choice. This amendment bill goes a long way towards addressing a number of those issues, but the next government needs to ensure that the proposed additional amendments, which will be presented in the form of another bill to be introduced into this place next year, are treated with priority, because it is important that those other issues proposed in that bill are delivered. As I close, I also want to mention the proposed regulations that will deliver a number of the amendments that have been passed by this Parliament tonight. It is important that the minister and the department are well and truly on top of ensuring that those regulations are presented and delivered as soon as practicable.

MR W.J. JOHNSTON (Cannington) [9.42 pm]: I want to speak briefly on the third reading of the Retirement Villages Amendment Bill 2012. I first want to acknowledge the residents of the various retirement villages in my electorate. I am always pleased to talk to them about issues and I know that they are pleased by the passage of this legislation. One thing I think they will be concerned about is the question discussed about proposed sections 76 and 77C. When we read them, and particularly when we refer to the explanatory memorandum provided by the government on these two proposed provisions, it seems as though the provisions are designed to protect residents in retirement homes, but the combined effect of proposed sections 76 and 77C is that those protections are being undermined. There has been no clear explanation from the government about why it is allowing undischarged bankrupts, convicted fraudsters et cetera to be managers of retirement homes. There has been no proper explanation of that. I know that residents in retirement villages are going to be very concerned. I am advised that similar provisions in the Victorian act do not have these exemptions, just as an example, so I do not understand why they have been included here, particularly when no clear explanation has been given about whether representations have been made to the government on this topic. It would be really, really important for the government to tell us whether such representations have been made and by whom, because what we have done is leave a door open for convicted fraudsters and undischarged bankrupts to come into the industry. I do not understand why the government thinks it is okay for convicted fraudsters to be managers of retirement homes, but apparently that is the government's position. Not only is that the government's position, but also we have to take note of the fact that the government does not even want to let residents of retirement villages know that these convicted fraudsters and undischarged bankrupts are going to be involved in the management of their villages. That is just totally bizarre. The government never explained why it wanted to do those things. They are not good exemptions. The Labor Party moved appropriate amendments that would have tidied up the legislation. Unfortunately, the government wanted to protect these miscreants rather than the residents in the villages.

MR J.M. FRANCIS (Jandakot — Parliamentary Secretary) [9.44 pm] — in reply: This is a great day for the elderly people of Western Australia. It is a great day for seniors. It is a great day for all of those people who are right now, or in the future, will be residents of retirement villages.

I will briefly reflect on the comments of the member for Cannington about the government allowing certain people into roles in retirement villages. As I said during consideration in detail and as I say again now, the government and the commissioner are not going to do anything whatsoever that will place in jeopardy the safety, finances, rights or welfare of senior citizens in Western Australia; it is just not going to happen. The member for Cannington can try to run that line as much as he likes, but there are exemptions. Let me just make one point on this issue as to who is a fit and proper person to run a retirement village. What members are about to see passed in this place tonight is a great improvement on what has been in place until today. We heard continuous stories about the previous administration of a particular village in Karrinyup, when anyone could basically run a retirement village in Western Australia unfettered. People of all kinds of dubious backgrounds could be dealing on a day-to-day basis with the vulnerable, the elderly and the lonely. That will no longer be the case in Western Australia. There will have to be some pretty exceptional circumstances for someone to be granted an exemption from the commissioner. I have faith in that process and I think the people of Western Australia should have faith in that process.

I will close by saying that the other great achievement of the Retirement Villages Amendment Bill is to limit how long retirement villages can charge those recurrent charges to former residents. It gives an incentive for people to get on and clean up that little unit, get it on the market, sell it, pay out the remainder, take their commission and get on with their job and find a new resident. As we all know, there are pressures on finding accommodation for elderly people in Western Australia. This bill will help encourage those operators to get a little wiggle on and, in some circumstances, to stop touching up the vulnerable or the estates of the deceased. That will not happen anymore either.

In closing, I thank all members from around the chamber who contributed to this debate. In particular, I would like to thank the Labor Party for its support and for expediting this bill through the house. I commend the bill to the house.

Extract from *Hansard*

[ASSEMBLY — Tuesday, 23 October 2012]

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Ms Margaret Quirk; Dr Tony Buti; Mr David Templeman; Ms Andrea Mitchell; Mr Andrew Waddell; Mr Tony O’Gorman; Mr Chris Tallentire; Mr Tony Krsticevic; Mr Peter Watson; Ms Rita Saffioti; Mr Peter Abetz; Dr Mike Nahan; Mr Joe Francis; Mr Bill Johnston

Question put and passed.

Bill read a third time and passed.