

**RESIDENTIAL TENANCIES AMENDMENT BILL 2023**

*Third Reading*

**MR J.N. CAREY (Perth — Minister for Housing)** [11.00 am]: I move —

That the bill be now read a third time.

**MR P.J. RUNDLE (Roe — Deputy Leader of the Opposition)** [11.00 am]: I appreciate the opportunity to wrap-up the debate on the Residential Tenancies Amendment Bill 2023 for the opposition and consolidate our position on the bill. Having been through various elements of the bill in consideration in detail, I confirm that the opposition will not support the bill because, on balance, the reform will do nothing to increase the number of rentals in the Western Australian market and has the potential to decrease the number.

As I pointed out in my second reading contribution, thanks to the Australian Bureau of Statistics 2021 census data, we know the figures. In Western Australia, about 26.4 per cent of properties are rental properties, with 22.9 per cent of these being private rentals and 3.5 per cent being social housing. I worry that the adoption of this legislation will drive those figures down further. Some lessors will say, “I want more control over my asset.” As the minister knows, we questioned at length the pet and minor modifications elements of the legislation; I think those two elements worry lessors. This legislation seems to be putting quite a lot of onus back on lessors to prove why they need to have control of their own asset, and that is concerning. As far as I am concerned, many lessors want to retain the status quo and control over their asset. That is the feedback that we have been getting.

I know that elements of the industry are comfortable. We had three or four contributions from members who talked about their experiences as renters, and I am sure that most people in the chamber have been renters at some stage. To be honest, I am comfortable with some elements of the bill, and I believe that they will help renters. I think limiting the frequency of rent increases to once every 12 months is a good thing and will protect our renters to a reasonable extent, given some of the developments I spoke about, such as long lines of people outside rental properties and people being prepared to bid up the price of rent. Real estate agents are also encouraging rent increases and rent bidding, if you like. I think that is a positive element, and I believe methodologies may be developed to bypass this scenario. It will be difficult to keep total control of it. I spoke about someone posting a notice on the deli pin-up board and some sort of rent-bidding arrangement developing with people writing on the board to say that they are prepared to pay a bit more. Some of those elements are still a little bit grey. The minister confirmed that he had no control over that sort of scenario developing.

**Mr J.N. Carey** interjected.

**Mr P.J. RUNDLE:** Despite the interruptions of the minister —

**Mr J.N. Carey** interjected.

**THE ACTING SPEAKER (Mr D.A.E. Scaife):** Minister! The minister will get a chance to do a third reading speech. The member for Roe has the call.

**Mr P.J. RUNDLE:** Thank you, Acting Speaker.

I think streamlining the bond disposal process is a good thing. In the past, there have been challenges and hold-ups. Providing the Commissioner for Consumer Protection with the power to determine certain types of disputes, including those about bond disposals, is a positive development. Retaliatory action no doubt takes place at different times, so I believe the measures taken by the minister will certainly improve that to some extent. What we have seen developing with this government over the last few years is overreach. This government is trying to reach into people’s lives to dictate what happens in their backyards. We have seen it in many pieces of legislation, and people have had enough. People’s private property rights are important to them. This is another example of people wanting to control their own assets. We understand renters and balance in the economy, but we also understand that people do not want this government straying into every part of their life, including dictating every element.

**Mr J.N. Carey** interjected.

**The ACTING SPEAKER:** Minister! The minister will get a chance, if he likes, to make a third reading reply.

**Mr P.J. RUNDLE:** In his second reading speech, the minister spoke about 119 applications to convert Airbnb properties into rentals. I think he said something in the order of 40-odd had been processed. That is a start, I guess, but I am worried that this legislation will cancel out that work, with many lessors taking their properties out of the rental market. As I said, the keeping of pets and the minor modification elements of the bill are the ones I am concerned about. Most rental stock is owned by mums and dads with one investment property. They want control of their property. I think some elements of this legislation will tip the scale back in favour of renters, but I reiterate that this legislation will do nothing to increase housing stock and the number of rentals. I thank the advisers for their help, but we will not be supporting the legislation.

**MR J.N. CAREY (Perth — Minister for Housing)** [11.08 am] — in reply: Can I just say for the record that the performance of the lead speaker for the opposition on this issue could be described as nothing more than appalling and shocking. He clearly does not understand the issues in the legislation. What has been incredible about the member for Roe's performance is that he claimed that people were concerned this would drive out landlords, but he did not name anyone. He did not name one group, one person or one institution. It was complete and absolute hearsay. We have seen that from this member before. We have seen it from someone who quotes Facebook comments—Facebook comments! It was an extraordinary performance by someone who clearly does not understand the legislation. He is completely ill-equipped to deal with the complexities of this legislation and, in the shortest reply to a third reading I have ever seen, he could not substantiate any claims—not one. It is incredible that the member has been in this chamber for so long and shows so little regard for the process that he cannot even substantiate his arguments by quoting any organisation, or even a person, to back his claims.

Let us put on the record what the Real Estate Institute of Western Australia said. What is REIWA? REIWA is the advocacy organisation for property owners. It is their primary and signature organisation. What did it say? It said —

Cath Hart today welcomed the McGowan Government's announcement of rental reforms, saying they struck the right balance.

...

“While recent State Budget initiatives focussed on supply, we also need a legislative environment that sustains and encourages investment. This review has been on foot for several years ...

“The reforms announced today strike the right balance for owners and tenants. The next step will be to work through the detail of these measures, and we will continue to advocate for practical and pragmatic approaches to their implementation.”

It also talked about no-grounds terminations, which we are not introducing. Cath Hart said —

“No grounds terminations has been a particular concern for investors and potential investors and they will welcome the decision to leave this unchanged. It gives them certainty and they can move forward with confidence, knowing they can manage their asset appropriately,” she said.

“WA is a unique market and we are pleased the Government recognises this.

...

Tenants will be allowed to have pets in rental properties in most cases and make minor modifications.

Cath Hart also said —

“Investors generally want two things: the rent paid on time and their property taken care of,” ...

“Meanwhile, tenants want to be able to make the house a home and have the freedom to own a pet.

“Many investors do approve and welcome pets...

We will work with government to ensure a fair and balanced outcome for all parties.

“When it comes to modifications, our previous research has shown investors are not hesitant to approve minor modifications, but their main concern is rectifying any changes at the end of the lease.

“The reform announced today addresses that concern, with tenants required to restore the property to its original condition at the end of the tenancy.”

Ms Hart said the announcement would give certainty to investors.

...

“Whether you're an investor or a potential investor, today's announcement means you can now make an informed decision knowing the rules of the game.

“WA's affordable housing is already attracting the ... Eastern States investors and this balanced approach to rental reform will also give them more confidence in investing in our market.

I do not know how that could be any clearer to anyone in this chamber. The primary body that represents property owners and landlords supports the balance that we have achieved. The opposition cannot substantiate its claims. It does not refer to REIWA yet claims that landlords would leave the market, without providing any factual information or substance at all—nothing. We had one of the worst speeches I have heard, with a lack of referencing to any evidence, research or advocacy organisations. That is damning for that member.

I also want to put on the record the claim that these reforms were not about boosting housing supply. I do not know where the member got that; I have no idea. He probably just made it up out of thin air. As we have said, this

legislation is a significant review and reform and there has been serious engagement with a range of stakeholders. We have said that the laws needed modernising, that there needed to be greater clarity around processes, and that this was about striking the right balance between all needs. The Real Estate Institute of Western Australia says that we have achieved that. We are boosting housing supply through all the other initiatives that I have previously outlined to this Parliament.

I suspect that the member does not understand housing supply or the legislation in this sector, and may have confused this with the short-term rental legislation we are bringing into this Parliament. That legislation actually will bring in stronger regulation and controls, particularly in the Perth metropolitan area, recognising that country markets exist as is. That is assisting, as is the financial incentive scheme that the lead speaker referred to. There is a range of different housing supply measures, and that was never mentioned by the opposition.

I want to address another one of the member's claims—that this legislation will drive landlords out. Members will remember that that member provided not one ounce of substance or statistical evidence from any advocacy organisation. He probably got it from a Facebook comment, as he usually does—the research institute of Facebook! That is where the member goes to inform his opinions.

I refer to an article from 5 February 2024 titled “WA only state to record more investor loans in 2023”. It states —

According to new statistics from the Australian Bureau of Statistics (ABS), Western Australia was the only state to see investor mortgage volumes increase over the calendar year 2023.

The latest Lending Indicators data from the ABS showed that \$9.14 billion of new investor loans were written in the western state over the year, up from \$8.94 billion recorded in 2022.

All the other states and territories saw a lower value of investor loans written over the year.

We have an opposition that has not had a housing policy to date—not one, zero; we are sending out search parties, because it has had no housing policies—yet makes claims about this legislation that are not supported by any statistical evidence or any evidence from REIWA, and are contrary to ABS data. That is just an extraordinary situation, and reflective of the lack of work done by that member.

It is also very clear that, for all the cries from members opposite about their concern for renters and the rental market, the opposition does not really care; it does not care at all. The opposition does not care about renters having a sense of security in their home. Here is my message to every Western Australian renter: the Nationals WA and the Liberal Party are not your friends. You cannot trust them. They do not want to make your life easier. They do not want you to have a sense of security in your home. That is the Liberal and National parties, and we will remind every renter in this state, right up to the election, about the position of those political parties.

The purpose of this bill always has been clear. WA's tenancy laws require an update because they have to reflect the changing nature of residential tenancies. It is true that Western Australians are renting longer in life. They are renting through different stages. As the opposition forgets, relationships break up and people have to make decisions and they find themselves back in the rental market. It is imperative that our laws reflect this reality. We think it is fair that tenants feel secure in their home and confident to request repairs and maintenance without retaliation. Like other states, we also think it is fair to have a clear system in place that will allow tenants to keep a pet.

It is important for tenants to be able to make small modifications to a rental property so that they feel secure. It is important that they feel confident to assert their right to their bond money and to have certainty about the rental price. As I have said before, the Real Estate Institute of Western Australia believes we have taken a fair and balanced approach, and our government recognises that it is equally important that landlords remain in control of their assets. We understand that the majority of landlords are mum-and-dad investors and that their investment property is part of their superannuation or wealth for future years. This legislation will strike a balance between the rights of landlords and tenants and the mutual obligations that come with tenancy agreements. It is for that reason, in part, that we will not proceed with banning no-grounds terminations, like some other states have.

This bill has been done through extensive consultation. In response to the consultation paper released in December 2019, 350 submissions were received from landlords, tenants and the real estate industry and bodies representing those groups. We have delivered this bill after careful consideration. One of the key messages that we heard from stakeholders was that the dispute resolution procedures could be improved. I think all sides agreed to that. We heard from members of the WA community who said that going to the Magistrates Court can be stressful and inconvenient and that some vulnerable parties would simply not go to the court, and we understand that. The new dispute resolution procedure for certain residential tenancy disputes, such as bond disputes and minor modifications, will empower tenants and landlords to assert their rights in a way that is transparent and convenient. Parties will have the transparency of a written decision provided by the Commissioner for Consumer Protection and, if unsatisfied, they will have the option to appeal to the Magistrates Court, as they can do now.

The most significant topic has been that the Commissioner for Consumer Protection will determine disputes relating to security bonds. As has been acknowledged and welcomed, this bill will bring a streamlined approach to the release of security bonds that is fast, fair and transparent, particularly when agreement between the parties cannot be reached. As we know, bond disputes are determined in the Magistrates Court, which can create delays and stress for parties, and many tenants, or even landlords, can feel overwhelmed by the process. Under the proposed system, either party will be able to request the release of the bond. In cases of disagreement or a lack of response from one party, the matter will be referred to the commissioner for determination. This process underscores the principle that the bond belongs to the tenant and is held in trust for the landlord, who must demonstrate their entitlement to any portion of it.

The Residential Tenancies Amendment Bill 2023 contains two reforms to address rental price instability and uncertainty, which are the primary concerns of tenants in the current market. As we have heard, the opposition will oppose the bill. We will remind Western Australian renters of that at every opportunity.

Firstly, the bill will reduce how often rent can be increased from once every six months to once every 12 months. Of course, we have heard stories in this chamber about tenants facing significant financial pressure after successive six-monthly rent increases. Reducing the frequency of rent increases will provide much relief to tenants and allow them to plan their finances 12 months in advance. This provision will bring Western Australia in line with most Australian jurisdictions.

Secondly, the bill addresses the issue of volatile markets caused by rent bidding. We have heard numerous concerns from the community about rent bidding. To tackle this problem, the bill will prohibit landlords and property managers from asking or encouraging tenants to offer a high rental price to secure a property. The bill will mandate that rental premises must be advertised or listed at a fixed amount, not within a range. Under these provisions, tenants will have more certainty about the rental price. We have heard furrphies from opposition members, such as landlords being in trouble for putting a price on a board. That is absolute rubbish. As long as landlords advertise one price, they will be compliant; that is very clear in the legislation.

The bill contains two reforms aimed at enhancing a tenant's ability to feel at home in their rental premises, while ensuring a landlord's ability to control their asset. The first part of the bill provides a new process for tenants to make minor modifications to their premises with the landlord's consent, with the landlord being able to refuse only in certain circumstances. The new provisions will contribute to a tenant feeling safe and comfortable in their rental home, but will not substantially alter the premises, which clearly remains the landlord's asset. As I have stated, the types of minor modifications include installing a flyscreen, a low-flow showerhead or creating a vegetable garden. The opposition says that tenants should not be able to do that. It does not believe that renters should be able to make those kinds of minor modifications. The opposition does not care about renters at all. It will oppose this bill because it does not care about renters. That message will go out again and again. Seriously, the opposition is worried about tenants installing a flyscreen or a low-flow showerhead and creating a vegetable garden. What reality are opposition members living in?

Landlords will be able to refuse modifications in certain circumstances without making an application to the commissioner, such as when the modification would disturb asbestos, which is common sense. Landlords will be able to refuse consent on application to the commissioner for discretionary reasons, such as when a landlord believes that the modification would result in increased maintenance costs. Landlords may also require certain modifications to be undertaken by a qualified person. The bill contains very clear provisions that will require tenants to restore their rental premises to its original condition or pay for the cost of restoration, unless there is agreement with the landlord. Let us be very clear about the opposition's fear and hate campaign against renters. The opposition hates renters. We know that opposition members do not like social housing.

**Mr R.S. Love:** Rubbish.

**Mr J.N. CAREY:** Here we go!

**The ACTING SPEAKER (Mr D.A.E. Scaife):** Minister, just direct your comments through the chair.

**Mr R.S. Love** interjected.

**The ACTING SPEAKER:** Leader of the Opposition!

**Mr J.N. CAREY:** Can we state this? That is from the member who does not have one social housing policy. The Leader of the Nationals WA says he is concerned about social housing and homelessness, but where are his policies? Zero. None. Nothing!

**Mr R.S. Love** interjected.

**The ACTING SPEAKER:** Leader of the Opposition!

**Mr J.N. CAREY:** The Leader of the Nationals WA is a disgrace. He says he cares about social housing and homelessness. Do members know what? Again, not one of them bothered to turn up last year at the Mission Australia Christmas lunch. What a disgrace. You show so little respect—not one Liberal or National.

**Mr R.S. Love** interjected.

**Mr J.N. CAREY:** You are a disgrace.

**The ACTING SPEAKER:** Minister, can you just take a seat for a moment. I ran a fairly robust defence of the member for Roe while he was being interjected on by the minister, and I will do the same for the minister because I said he would have an opportunity to give his reply. Minister, if you could direct your comments through me as the chair, and Leader of the Opposition, if you could cease interjecting.

**Mr J.N. CAREY:** I note again on the public record that not one member of the lower house or upper house of the Liberals or Nationals attended the Mission Australia Christmas lunch—not one for the last seven to eight years. Although I remember one Liberal candidate who attended who was not a member of this chamber. Does the opposition think that it has basic respect? It may not be the Leader of the National Party. The opposition does not care at all that not one member could pop in for 30 to 40 minutes to acknowledge the volunteers, and to acknowledge that critical event that is on the calendar every year in this state. That says something about the calibre of the opposition; that is, it shows no respect at all. There are no excuses at all. There are enough members across this chamber and the other chamber that one member could attend. I have given opposition members warnings, because I have raised this every year in this Parliament, but they still cannot be bothered—not even one of the metropolitan MPs.

**The ACTING SPEAKER:** Minister, I point out that this is the third reading debate.

**Mr J.N. CAREY:** Yes, and I am going back to the topic right now.

**The ACTING SPEAKER:** If you could come back to the topic of the bill, thank you.

**Mr J.N. CAREY:** The bill also includes provisions that will prevent a landlord from refusing consent for a modification that is required to allow a person with a disability to access and use premises if to refuse so would be unlawful under the Equal Opportunity Act 1984 and the Disability Discrimination Act 1992. This is to ensure that our most vulnerable members of the community have their rights reflected in the residential tenancies legislation. Again, by the opposition opposing this bill, it opposes those measures.

The second reform that will help tenants feel at home in their rental premises is allowing tenants to keep pets in their rental premises unless the landlord has a good reason to refuse. A landlord may refuse a tenant's request to have a pet without seeking approval from the commissioner in certain circumstances such as when pets are prohibited by strata by-laws. Be very clear. If the strata by-laws say that people cannot have pets in a building, they cannot have pets in a building—full stop. The landlord may also apply to the commissioner to refuse the request for a discretionary reason such as the landlord believes that the premises are unsuitable for keeping a pet. Similar to the provisions for minor modifications, landlords can also set conditions on their consent. It is also important to note that these provisions about pets will be subject to local government laws. I have to say that the lead speaker for the opposition did not get that and does not understand strata laws or local laws. He appeared to be suggesting on a regular basis that these laws would be operating in isolation. Therefore, the laws—this is critical because the lead speaker talked about a tenant having six pets in a house or an apartment—that apply to the number and type of pets that may be kept in certain areas will prevail when a tenant seeks permission to keep a pet. Any by-laws for pets under a strata or a community titles scheme will continue to apply.

We heard outlandish hypotheticals from the opposition because it is scratching to find another reason to oppose this legislation. It is very clear that the strata by-laws will apply all the local laws.

The final reform, which is critical, is that the bill will address the sad situation of tenants being afraid to assert their rights because they worry that their landlord may take retaliatory action of some kind, whether it be terminating their lease, increasing their rent or refusing to renew their lease. The new provisions about retaliatory action will strengthen the protections for tenants, allowing them to seek relief from the Magistrates Court if they believe that their landlord has retaliated against them wholly or partly because they asserted their rights, such as by requesting repairs and maintenance or making complaints to a body like the Consumer Protection division. This provision will empower tenants to stand their ground when they feel that they are being treated unfairly.

We understand that rental tenancies play a critical role in our community, particularly for vulnerable Western Australians. We recognise the current constraints and, as a government, we are doing everything to boost supply. We have seen scenarios in which tenants have been forced to give up their beloved pets. This bill will empower tenants to feel more secure in their homes while ensuring landlords maintain control of their property assets. We believe that the bill strikes a balance and will create a rental landscape that provides stability and security for tenants while also respecting the interests of landlords.

Mr John Carey; Mr Peter Rundle; Acting Speaker (mr D.A.E. Scaife)

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I will end with comments by the key property owner and landlord body—that is, the Real Estate Institute of Western Australia. REIWA welcomed the announcement, saying that the legislation strikes the right balance and will provide certainty for investors. My final message to Western Australian renters is that only one side of politics cares about ensuring they have a safe, secure and stable home; the other side of politics does not care about renters. The opposition has no housing plan or any other policies.

This is the right bill. This is a bill that strikes the right balance, as REIWA has acknowledged. It is about providing more security for tenants and ensuring that there are transparent processes that will provide protections for landlords, who are in many cases mum-and-dad investors.

*Division*

Question put and a division taken, the Acting Speaker (Mr D.A.E. Scaife) casting his vote with the ayes, with the following result —

Ayes (38)

Mr G. Baker	Ms E.L. Hamilton	Mr D.R. Michael	Ms J.J. Shaw
Ms L.L. Baker	Mr T.J. Healy	Mr K.J.J. Michel	Mrs J.M.C. Stojkovski
Ms H.M. Beazley	Mr W.J. Johnston	Mr S.A. Millman	Dr K. Stratton
Mr J.N. Carey	Mr H.T. Jones	Mr Y. Mubarakai	Mr P.C. Tinley
Mrs R.M.J. Clarke	Mr D.J. Kelly	Ms L.A. Munday	Ms C.M. Tonkin
Ms C.M. Collins	Ms E.J. Kelsbie	Mrs L.M. O'Malley	Mr R.R. Whitby
Mr R.H. Cook	Ms A.E. Kent	Mr P. Papalia	Ms S.E. Winton
Ms L. Dalton	Mr P. Lilburne	Mr D.T. Punch	Ms C.M. Rowe ( <i>Teller</i> )
Ms D.G. D'Anna	Mrs M.R. Marshall	Ms R. Saffioti	
Mr M.J. Folkard	Ms S.F. McGurk	Mr D.A.E. Scaife	

Noes (2)

Mr R.S. Love	Mr P.J. Rundle ( <i>Teller</i> )
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Pairs

Ms M.M. Quirk	Ms M.J. Davies
Ms A. Sanderson	Dr D.J. Honey

Question thus passed.

Bill read a third time and transmitted to the Council.