

RESIDENTIAL TENANCIES AMENDMENT BILL 2023

Introduction and First Reading

Bill introduced, on motion by **Mr J.N. Carey (Minister for Housing)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR J.N. CAREY (Perth — Minister for Housing) [12.40 pm]: I move —

That the bill be now read a second time.

When Western Australia's tenancy laws were last revised more than a decade ago, renting was seen as a short-term transition to home ownership. Now renting is more likely to be a longer-term housing solution for a growing number of Western Australians who find themselves renting for longer and maybe even for life. This substantial shift in the way that Western Australians live needs to be reflected in the residential tenancy laws that balance the needs of tenants and landlords.

The law reforms contained in this bill will adjust and create new rights, protections and responsibilities for parties to residential tenancy agreements in Western Australia and follow a national trend of modernising rental laws to help tenants feel at home in their rental property while, at the same time, recognising the landlord's asset. The Cook government recognises the importance of protecting the investments of the many property owners who contribute much needed supply to the housing market. The changes implemented through these reforms will strike an appropriate balance between landlord and tenant rights and provide a strong framework for parties to negotiate and manage mutually beneficial tenancy relationships.

The bill will deliver reform for a range of priority areas that were identified through extensive consultation with members of the Western Australian tenancy community. The review commenced in 2019 with the release of a consultation paper that examined a number of issues across the life cycle of a tenancy and outlined options for reforms to the Western Australian Residential Tenancies Act 1987.

Mr R.R. Whitby interjected.

Mr J.N. CAREY: I do hope the Minister for Environment gets his nap!

More than 350 submissions were received from landlords, tenants, members of the real estate industry and bodies representing those groups. The submissions identified dispute resolution as a key issue, with 92 per cent of respondents supporting reform in this area. We heard from tenants that they want to feel better protected and at home in their rental property, and we heard from landlords that they need to be able to maintain control of their rental property. The review considered the need to develop a residential tenancy dispute resolution process that is fast, fair, delivers consistent outcomes, is accessible and gives all parties a voice. We heard members of the community say that attending the Magistrates Court to resolve disputes can be slow, stressful and inconvenient, sometimes leading them to agree to outcomes just to avoid going to court. At the heart of these reforms is the establishment of a new dispute resolution procedure for certain residential tenancy disputes, such as bond disputes and matters related to pets and minor modifications. Under the process, the Commissioner for Consumer Protection will issue a written determination based on evidence provided by both the landlord and tenant. This written determination will be provided to the parties, who will have the option to appeal to the Magistrates Court if they are unhappy with the decision. A body of the commissioner's de-identified reasons for decisions will be made public, providing clarity to all parties regarding how similar disputes may be resolved in the future. This approach will ensure fair, transparent outcomes without the stress and inconvenience of attending court.

The bill will also introduce a streamlined process for release of tenancy bonds that will ensure fast, fair disposal of the bond, especially when parties do not agree. Currently, all bond disputes that cannot be agreed by the parties must go to the Magistrates Court. This is time consuming. Consumer Protection has heard from tenants who choose to not fight for their bond money because they are too stressed or intimidated to go to court. Under the new process, either party may apply for the bond to be released and when there is a dispute or no response from the other party, the bond dispute will be referred to the commissioner for determination. This new process will reinforce the fundamental rule that the bond is the tenant's money, held for the benefit of the landlord, who needs to establish their entitlement to claim any part of it.

It is no secret that rents have been increasing and many tenants find it challenging when their rent increases every six months. This bill will help those tenants by reducing how often rent can be increased from once every six months to once every 12 months. Furthermore, tenants who roll onto a new lease in the same property will now be considered as having a continuous tenancy agreement, so that their rent cannot be increased within 12 months of the previous increase, even if a new lease has begun. This reform will create certainty and stability for tenants to plan their finances and will bring Western Australia into line with most interstate jurisdictions.

Another reform that will improve rental price stability and certainty is prohibiting the solicitation of rent bidding by landlords and property managers. Rent bidding, which refers to tenants offering increasing amounts of money to secure a rental property, is a problem that we have heard a lot about recently because it drives up rental prices and contributes to rental unaffordability. To help prevent rent bidding, this bill requires that rented premises be advertised or listed for rent at a fixed amount only and not in a range, and that landlords or their agents may not ask or encourage tenants to offer above the advertised rent. Penalties apply for breach of this provision to reflect its seriousness.

As I stated earlier, tenants are increasingly renting for longer and more are renting for life. This means that tenants need to be able to feel at home in their rental premises, because for many, this will be their home for a number of years. This bill introduces two important reforms that will allow tenants to make the rental premises more like home. It will be easier for tenants to make minor modifications to the rental premises, with the consent of the landlord who will be able to refuse only in certain circumstances. This reform will allow tenants to do small things to help them feel safe and comfortable, like installing a flyscreen or a vegetable garden. Importantly, landlords will be able to refuse or place conditions on the making of a modification where it is appropriate to do so. For example, the landlord may require that certain modifications be undertaken by a qualified tradesperson or may refuse where making the modification would disturb asbestos. Other more discretionary reasons for refusal, such as that making the modification would cause additional maintenance costs to the lessor, would require the landlord to make an application to the commissioner confirming the refusal. I want to assure landlords that tenants will not be able to make changes to the rental premises without permission and will be required to restore the premises to their original condition unless the landlord agrees otherwise.

We have all heard heartbreaking stories in recent times of tenants having to give up their pets in order to find a rental property. Under these reforms, which will no longer be the case. Tenants will be able to keep pets in the rental premises unless the landlord has a good reason to refuse. A landlord may refuse the tenant's request to keep a pet without an application to the commissioner for certain reasons, such as keeping pets is not permitted under strata by-laws. Other reasons for refusal will require an application to the commissioner, for example, that the premises are not suitable for keeping a pet. As with minor modifications, landlords will be able to impose conditions on consent, like the number of pets and where the pet may be kept.

The Cook government has heard landlords' concerns that the pet bond, which can only be used for fumigation, needs to be expanded in scope to be used for things such as damage or extra cleaning caused by the tenant keeping a pet. These reforms will allow the pet bond to be used for these purposes, as well as fumigation.

In the current tight rental market, the sad reality is that some tenants feel afraid to assert their rights for fear that the landlord will take retaliatory action, such as giving a breach notice, increasing the rent or taking action to terminate the tenancy. This bill introduces strengthened provisions whereby the tenant may apply to the Magistrates Court for relief when the tenant reasonably believes that the lessor has acted in a retaliatory way and that action is wholly or partly motivated by the tenant or their representative exercising their rights or making a complaint. This provision will empower tenants to assert themselves in the circumstance that their landlord may have done the wrong thing.

Residential tenancies fulfil a vital role in our community, especially for its vulnerable members who are struggling to find affordable housing. Recently, we have seen the rental market become more challenging and more expensive. We see a need for rental price certainty and stability. We see tenants with pets forced to give them up for adoption to find a new rental home. We see tenants wanting more freedom to feel at home in what may be their long-term residence. The amendments in the bill empower tenants to achieve these goals while balancing the need for the landlord to maintain control of their asset.

I commend the bill to the house.

Debate adjourned, on motion by **Ms M.J. Davies**.