

Housing Legislation Amendment Bill 2022

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Community Support and Services Committee
Submissions on the Housing Legislation Amendment Bill 2022
By email: CSSC@parliament.qld.gov.au

Dear Colleagues,

Housing Legislation Amendment Bill 2022 – Submission on amendments to the Retirement Villages Act 1999

Thank you for the opportunity to provide a submission in support of the Housing Legislation Amendment Bill 2022 (the **Bill**). The scope of our submission is limited to Part 4 of the Bill which seeks to amend the *Retirement Villages Act 1999* (the **RV Act**).

About Caxton Legal Centre

Caxton Legal Centre is Queensland's largest community legal centre. Our objective is to provide legal and social welfare services to low income and disadvantaged persons in need of relief from poverty, distress, misfortune, destitution and helplessness, and to educate such people in legal, social welfare and related matters. We are an independent, non-profit community organisation providing free legal advice, social work services, information and referrals. Within Caxton Legal Centre, the Queensland Retirement Village and Park Advice Service (QRVPAS) is funded by the Department of Communities, Housing and Digital Economy, and has been delivered by Caxton Legal Centre since the program first piloted in 2014. We aim to provide increased housing security to Queenslanders living in retirement villages by assisting them to:

- understand their rights and responsibilities under the relevant legislation;
- build capacity to present their interests to scheme operators; and
- have increased access to appropriate legal advice services.

To achieve these aims, QRVPAS provides free legal advice, information, community legal education and referral services to residents of retirement villages across Queensland. We are also involved in ongoing consultation with other stakeholders who contribute to the development of legislation, community education and policy in this area. Provision of these services has given us considerable insight into the difficulties and frustrations experienced by Queenslanders living in retirement villages, particularly in regard to financial management and reporting.

Caxton Legal Centre supports the Bill and its objective of increasing the transparency, accountability and consistency of financial reporting in retirement villages. We make the following comments.

Creation of a new regulation making power for financial documents

We welcome the creation of a new regulation making power for financial documents under section 113AA. The financial documents provided to retirement village residents are often hard to interpret and understand. This complexity makes it difficult for residents to have confidence that:

- a) the three mandated funds are being managed correctly; and
- b) budget increases and the corresponding increases in the general services charge are necessary and appropriate.

Concerns around these two issues are a common motivator for retirement village residents to seek advice from QRVPAS and can be a cause of considerable anxiety for these older Queenslanders. Many residents suspect that they are being taken advantage of, or that the funds they contribute to are being mismanaged by the scheme operator.

Having financial information presented in a form that is accessible and easy to understand will generate trust between residents and scheme operators and will reduce the amount of resources dedicated to disputes and inquiries. The increased transparency, and consistency of these forms will also:

- reduce the opportunity for any inappropriate financial practices to be hidden;
- Assist scheme operators to respond to queries and requests for information;
- Assist legal and non legal representatives to provide advice and attempt to resolve disputes at an early stage of the process

The inclusion of quantity surveyor reports as a type of document which will be subject to the new regulation making power is a positive step as it will enable residents to understand the basis on which draft budgets are being produced.

The success of these reforms will ultimately depend on the usefulness of the documents mandated under regulation. We understand that there will be opportunity to comment on these forms at a later date. In the interim we note that, while it is important the forms are easy to read and understand, this does not necessarily equate with providing less information. In our experience, transparency is often reduced by including a large number of items under a cost centre or heading such as “garden maintenance” or “salaries”. This practice makes it difficult for residents to understand what exactly is included in the proposed expenditure..

Increased access to financial documents

Caxton also welcomes the amendments which will increase access to financial documents both by residents and by the Department of Communities, Housing and Digital Economies. These amendments require that quantity surveyor reports and audit reports of annual financial statements must be provided to the Chief executive within 5 months of the end of the financial year and that the Chief Executive must include these documents on the register. Amendments to the Village Comparison documents must be provided within 28 days, along with a written notice of amendment and must also be included in the register.

Importantly, residents may request a copy of a quantity surveyor reports or a draft budget no less than 28 days before the beginning of a financial year and the scheme operator must provide no less that 14 days before the beginning of the financial year. Quarterly financial statements must be provided to a resident within 28 days on request. We agree that access to this financial information in an improved simplified format is an important part of ensuring transparency and accountability in retirement village financial reporting.

We note that a number of new penalty provisions have been created in relation to the provision of documents to residents and to the Chief executive. While we view the addition of these penalty provisions as positive, we recognise that penalties are only effective when they are seen to be enforced. With this in mind it is important that the regulator is appropriately resourced and trained to respond to breaches of these provisions.

Increased clarity in the legislation and the power to make guidelines

We support those amendments in the Bill which aim to increase clarity as to the meaning and interpretation of the legislation. We note the amendment of section 93 to clarify that the capital replacement fund contribution must be paid every year, must come from the scheme operator's own money and cannot be raised from the residents apart from a residents ingoing contribution. As well as the amendment of section 102A to clarify that a past deficit or surplus for a general services charge budget must be brought forward before fixing the total general services charge and before the Consumer Price Index percentage increase cap is applied to the charge. These clarifications support an interpretation of the legislation which is fair and which protects the interests of vulnerable older Queenslanders.

Provision for the making and publishing of guidelines by the Chief Executive, under the new section 226, is also welcome. While these guidelines are non-legislative, they will provide clarity for operators and residents as to their respective obligations under the RV Act and promote consistency in interpretation of the legislation. We anticipate that this will reduce the need for time-consuming and costly disputes.

Author and Thanks

This submission was prepared by Amanda Hess, Senior Lawyer for the Queensland Retirement Villages and Parks Advice Service.

Thank you for considering our submission and we continue to welcome any opportunity to provide further input in the inquiry process.

Yours faithfully,



Cybele Koning
Chief Executive Officer
Caxton Legal Centre Inc