

Real Estate Excellence Submission – Community Support and Services Committee  
Residential Tenancies and Rooming Accommodation (Tenants' Rights) and Other Legislation  
Amendment Bill 2021

1<sup>st</sup> July 2021

Email: [CSSC@parliament.qld.gov.au](mailto:CSSC@parliament.qld.gov.au)

Committee Secretary

Community Support and Services Committee

Parliament House

George Street

Brisbane Qld 4000

Dear Committee,

Thank you for the opportunity to make this submission.

My name is Stacey Holt, and I am the owner and CEO (sole company director) of Real Estate Excellence Academy Pty Ltd ([www.realestateexcellence.com.au](http://www.realestateexcellence.com.au)) I have been working in the Real Estate industry for 27 years with almost 20 years in education, training, and advising the sector. Real Estate Excellence has been operating since January 2010.

Real Estate Excellence a best practice and compliance focused business with a membership support service component with over 250 member offices throughout Queensland. I also hold regular face to face training and education events focused on Property Management Excellence and best practice.

I write to the Committee regarding the Residential Tenancies and Rooming Accommodation (Tenants' Rights) and Other Legislation Amendment Bill 2021

The Real Estate Industry is largely driven by supply and demand. Since the Pandemic, and due to extraordinary circumstance, the industry has seen an unprecedented amount of change in relation to people relocating to Queensland, investors selling and first home buyers (and others) buying property. Record interest rates are adding to the current demand and supply situation. The main point is the supply and demand factor. Pricing is based on demand and supply as with most free markets. Regulating rental amounts and increasing is a of great concern given the need for investment in rental property to meet the demand now, and into the future.

The current housing situation is well documented throughout Australia, and New Zealand. Regulating rent increases and amounts is not the solution to assisting tenants. Increased housing is the solution and incentives to invest to provide the housing needed. The Government have committed to increased housing however that will provide only part of the solution.

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**Limit rent increases to once every 24 months and by no more than CPI per year, including if there is a period for which the property is not rented or if current tenants move out and new tenants enter on a new lease.**

Regulating rents and when rents can be increased will lead to investor concern, scarcity and looking to diversify in other free markets. This is the worst case scenario. To be fair and balanced, and deal with any unintended consequences, leaving status quo is recommended.

The Residential Tenancies and Rooming Accommodation Act (RTRA Act) has provisions in place for rent increases during existing fixed term tenancy contracts, plus periodic tenancies. The tenant has ability to act and if need, apply to Tribunal (QCAT) to decide if a rent increase is excessive. (Sections 91 and 92). Section 94 allows for rent to be increased in a six month period only.

For fixed term tenancy agreement contracts that are renewed and effectively enter into another fixed term contract (known as lease renewals), section 71 adequately allows for tenants to seek assistance if they believe any rent increase is excessive.

There are adequate provisions in place in the legislation without need for further regulation.

**Remove the lessor or lessors' agent's ability to accept rent bids from prospective tenants.**

Rent bidding is an emotive, unjust, misused and unfair word. There is no evidence rent bidding occurs in the industry. The use of the word rent bidding alludes to the thought that there is a form of 'auction' occurring which is not the case.

The RTRA Act requires rent be advertised at a fixed amount (section 57). Words such as negotiable and price ranging are prohibited. Property managers cannot encourage or solicit offers from prospective tenants. Section 57 is a penalty unit provision.

**Allow tenants to make minor modifications to a rental property without first obtaining the landlord's consent.**

Section 217 to 219 of the RTRA Act currently cover tenants making fixture or structural changes to the property. There is no need to further regulate as these provisions adequately cover the rights of either party in this instance.

**Give tenants the right to keep a pet unless the lessor applies successfully to the Queensland Civil and Administrative Tribunal ("the Tribunal") for an order refusing the pet on reasonable grounds.**

The provisions in the [Housing Legislation Amendment Bill 2021](#) regarding pets are by far more practicable and reasonable than this Bill. So many additional factors must be considered for this matter such as what is included in the Housing Legislation

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Amendment Bill including relevant laws including local and body corporate laws. This matter will be addressed further in my additional Housing Bill submission.

**Ensure certain inclusions in regulations made regarding minimum standards for rental homes.**

The proposed amendment are of concern particularly amending section 17A to insert must as opposed to the current may and having a minimum standard for all provisions listed. Leaving section 17A as may allow for Government to react and respond if and as needed. Whilst Real Estate Excellence supports measures to ensure properties continue to be safe and fit to live in, amending this provision to must is fraught with risk. There are so many factors to consider including cost to investors, availability of contractors if and as needed. This proposed provision has added a complexity that is unnecessary. Section 185 of the RTRA Act sets out lessor obligations currently. The proposals set out in the Housing Bill are encouraged to instead be considered of which Real Estate Excellence will provide more information in a further submission.

**Improve lease security by removing the ability for “no grounds” evictions or evictions for sale contract by the lessor, and replacing these provisions with two new grounds for a notice to leave, being:**

**- Occupation by the property owner or the owner’s close relative - Major renovations to be made to the property - Vary minimum notice periods for a notice to leave, including: - 6 months’ notice for owner/ relative occupation and major renovations**

Real Estate Excellence provided several submissions during the RTRA Act review in 2018 (an extract supplied further down this submission). The Government need to consider another approach regarding the ending of tenancies.

An unintended consequence which appears to not have been considered is Landlord insurance and risk. Most landlord insurance policies provide no, or limited coverage for periodic tenancies. Common practice of industry since the notice to leave without grounds provision was increased to two months in 2009 is for lessors to be contacted by their agents around 2.5 to 3 months prior to a fixed term agreement contract expiring. The only reason this best practice procedure occurs is in the event the lessor wishes for the tenancy contract to end at the end of the fixed term agreement, and the two months’ notice can be provided to the tenant.

The Regulatory Impact Statement (part of the 2018/209 review) notes Queensland has some of the highest fixed term tenancy contracts in Australia. The reason this would long be the case is due to security of all parties, best practice and

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particularly, landlord insurance. If a tenant is offered a new agreement contract (lease renewal), and refuses to enter into a lease renewal, the tenancy reverts to a periodic. This leaves the investor in a serious position of risk due to reasons noted above; most lessor insurance policies provide limited and no coverage in the event of loss if a tenancy contract is periodic. Due to insurance and management of risk and security, tenants may be given a notice to leave without grounds if they do not wish to enter into a new tenancy agreement (lease renewal).

Most tenants are good people, as are most investor lessors and agents. Bad things happen to good people meaning if the tenant does not want to enter into a lease renewal agreement, as they want the flexibility of a periodic lease, and the lessor does not have a proposed prescribed reason to end the tenancy, the investor is left in a dangerous position if the tenant situation and life changes. Examples include addiction, job losses, relationship dispute as opposed to violence and more. In the event the good tenancy 'goes bad', and the lease is periodic, there is great risk of loss to the investor.

There are genuine concerns investors may leave the market due to their loss of right to end a tenancy contract for their asset without grounds. This is a possibly the Government cannot find afford to risk, given supply and demand drive rental market price, plus, the lack of social housing and homelessness. All parties will suffer should the removal of without grounds proceed.

The solution to the minority of lessors who the Government call the 'retaliatory and revenge eviction' is to introduce a penalty unit provision if a tenant is provided a without ground notice in breach of section 291, with section 292 allowing for tenant to make complaint to the RTA if there is an alleged breach of the lessor.

Of my review and knowledge of all QCAT published decisions and appeals during the last ten years, my understanding is there are three known cases that involve retaliatory eviction. Not all decisions and appeals are published. It is an indication the matter of lessors giving a notice to leave in breach of section 291 may not be as widespread as stated by Government in the Regulatory Impact Statement, media statements and social media posts.

My understanding is Tenants Queensland have long expressed concern regarding section 292 in the tenant must 'action'. The action being applying to tribunal within 4 weeks of being given a notice to leave and it is thought to be retaliation to a tenant utilising their rights, such as issuing a breach to lessor for alleged breach of their maintenance obligations under section 185.

The option of introducing a penalty for the issuing of a notice to leave without grounds is a win for all parties; and provides the tenant an effortless cost free option

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of complaining to the RTA for review of the notice to leave without grounds given in breach of section 291. The RTA should have the option of setting the notice aside, plus opposing a penalty if upon their usual investigation procedures finds the lessor is in breach.

There may be administration burden for the RTA; however, this should not deter the Government consideration given the serious risks involved for all parties should notice to leave without grounds be removed from the legislation as noted above. Given the number of QCAT decisions relating to retaliatory evictions in the last ten years, a substantial administration burden is not expected to occur for the RTA. This is a matter that could be reviewed in the years to come. The Government can fix this so-called widespread industry practice which is greatly disputed by introducing a penalty unit offence and ability to set aside a notice to leave without ground if it is found there has been a breach by the lessor of section 291.

Section 291 of the RTRA Act clearly sets out when a notice to leave without reason cannot be given to a tenant.

Section 292 protects tenants who believe a lessor has contravened the provision.

Therefore, there is no need to add increased legislation unnecessarily.

Investors should always have the right to lawfully terminate a tenancy without reason. If investors comply with legislation, a lessor should have the right of possession without having to state a reason. Tenants are protected if lessors act outside the legislation. This is fair and balanced for all parties.

Please contact me if any addition information is required, and or any questions are raised as part of my submission.

Yours sincerely

Sent via email [REDACTED]

Stacey Holt

Chief Executive Officer (CEO - Stacey Holt Real Estate Excellence

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