Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024

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Submitter Comments:

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To: Housing, Big Build and Manufacturing Committee
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Hello,
I am a landlord and am very concerned at the erosion of landlord's rights and the risk to losing trust and respect between tenants and landlords with the proposed changes.
Regardless of whether the government of the day admits it, landlords are a vital part of the solution to the housing crisis and continually making laws that erode the rights of the property owner will drive away investors and create further rental crisis for the 30% of Queenslanders that rent.
In my assessment, the stated objective to "Strengthen Tenants' rights, support private investment, provide better pathways to resolve issues in tenancies, and stabilize rents in the private rental market" remains unfulfilled. The proposed measures exhibit unintended consequences, rendering their implementation impractical and reinforcing the perception among private investors that their contributions to housing supply are undervalued and unsupported by the Queensland Government.
A fundamental equilibrium between Tenants' rights and obligations and owners' rights and obligations is imperative. Regrettably, these measures tilt the balance excessively in favour of Tenants, neglecting the legitimate concerns of property owners. Throughout the proposed changes, I cannot discern any provision that genuinely supports private investment or facilitates the resolution of tenancy issues. Rather, the amendments are poised to exacerbate distrust and antagonism between tenants and property owners.
The goal of stabilising rents in the private rental market could be more effectively attained through market-driven mechanisms, wherein government efforts are directed towards augmenting rental market supply and fostering an environment conducive to private investment. While initiatives to transition Queenslanders into homeownership are commendable, the reality remains that 30% of Queenslanders rely on rental accommodation, necessitating a sustained influx of investment from private stakeholders to meet this demand. The persistent dearth of substantial investment in social housing within Queensland has placed undue pressure on the private rental sector. Consequently, vulnerable individuals in need of social housing further strain the rental market, exacerbating existing challenges.

Specific feedback on clauses

Where feedback is offered on individual clauses that result in changes to other sections, feedback should be read as applying to those also.

Clause 13 – Amends Section 87 – Rent in Advance

Clause 13, which amends Section 87 regarding Rent in Advance, proposes limiting rent in advance to four weeks during any period of the tenancy, primarily to eliminate the practice of tenants offering rent in advance during the application process.
Nevertheless, the proposal overlooks the reality that many tenants voluntarily offer three to six months' rent in advance to provide reassurance to property owners, especially when their income may not meet the stringent criteria for tenancy approval. For instance, individuals transitioning from homeownership, particularly separating couples awaiting proceeds from property sales, may rely on offering rent in advance as a means of demonstrating financial stability and offering assurance to prospective Owners, thereby facilitating their entry into the rental market.
Moreover, the proposal fails to acknowledge that many tenants prefer to pay their rent on a monthly basis for various reasons. Monthly rent, as opposed to four-weekly rent, reflects a standardised practice in numerous countries and offers practicality for community organizations leasing properties. Additionally, some tenants derive a sense of security from paying rent monthly, knowing they are adequately prepared for any unforeseen

circumstances that may arise.
Consequently, the proposed amendment, if applied uniformly throughout the tenancy, would inadvertently limit the flexibility and choices available to tenants, potentially undermining the very tenants it aims to support. Therefore, a reconsideration of this proposal is warranted, taking into account its broader implications and unintended consequences.

Clause 15 – Amends Section 91 Minimum period before rent can be increased.

Clause 15, which amends Section 91 regarding the minimum period before rent can be increased, proposes extending the twelve-month interval between rental increases to also encompass the actual property, irrespective of tenancy or ownership changes. This proposition lacks support as it amends a previously flawed amendment, which was deemed ill-conceived and inconsistent with sound legal and policy principles.
The existing twelve-month rent increase regulation already disincentivises owners from offering six-month leases, thereby limiting choices and freedoms for tenants seeking shorter lease terms to accommodate their circumstances or for owners facing uncertain future circumstances.
Extending the minimum twelve-month period between rent increases to apply to the property itself further disincentivises six-month leases by heightening the risk of increased costs without the opportunity to offset them through rent adjustments.
Moreover, when juxtaposed with the proposed changes to capping reletting fees, this amendment is poised to increase instances of lease terminations by tenants, impede owners from adjusting rents to fair market value upon reletting, and complicate subsequent rent increase procedures.
Furthermore, the proposal fails to provide owners with mechanisms to undertake property renovations or enhancements if they are unable to increase rent. This restriction undermines basic principles of standard business practice, hindering owners' ability to invest in property improvements.
The complexities introduced by the requirement for proof and documentation disclosure upon changes in ownership are both impractical and transparent attempts to restrict rent adjustments. Additionally, it offers no incentive for buyers to upgrade property features before returning it to the rental market.
The notion that two adjacent properties could be subject to different trade restrictions due to their individual histories is untenable within a private market framework.
In light of these concerns, this proposal should be straightforwardly discarded due to its impracticality and failure to achieve its intended objectives.

Clause 25 – Amends Section 155 Transfer of Rental Bond

Clause 25, which amends Section 155 concerning the Transfer of Rental Bond, proposes allowing bonds to be transferred from one residential tenancy agreement to the next, disregarding the fundamental purpose of the bond.
The bond serves as a safeguard for property owners/agents until they can conduct an exit inspection upon the tenant's vacating the property. Even exemplary tenants may inadvertently overlook cleaning tasks or fail to budget for final utility bills, necessitating bond claims to address such matters.
The proposal lacks substantive practical details, and I remain opposed to any concept that could potentially impede an owner's ability to rightfully claim funds necessary for restoring the property to its initial condition, excluding reasonable wear and tear, and recouping unpaid rent.
However, if the proposal entails a loan arrangement between the Residential Tenancies Authority (RTA) or Department of Housing and the tenant, ensuring that the bond amount remains accessible for legitimate claims by the owner when necessary, then we have no objections to such an arrangement.

Clause 65 and all associated clauses - Alterations to fixtures and

structural changes – Section 207 to 209

Clause 65 and its associated clauses, addressing Alterations to Fixtures and Structural Changes within Sections 207 to 209, present significant concerns regarding the approval process for Owners in adjudicating tenant requests, particularly amidst the expansive definitions of fixtures and structural changes.

The discretionary power granted to Owners to impose conditions poses inherent challenges, especially considering the potential financial and logistical implications should tenants fail to remove alterations at the conclusion of the tenancy. While recourse through Queensland Civil and Administrative Tribunal (QCAT) claims exists to address such costs beyond the bond, even seemingly minor modifications like repainting a wall pose considerable expenses to revert to their original state, exemplifying the unanticipated complexities involved.

Furthermore, my apprehensions extend to tenants, particularly those lacking familiarity with tradesmanship and material costs, who may overlook budgetary considerations for removal expenses associated with structural alterations installed at minimal initial cost but posing substantial removal challenges.

The proposition that owners compensate tenants for alterations left in place introduces additional financial burdens, raising questions regarding the timing and method of compensation and allocation of warranty responsibilities. The absence of clear guidelines and frameworks exacerbates these uncertainties, necessitating comprehensive delineation before practical implementation can be considered viable.

Clause 50 Section 57B-57D Applications for Residential Tenancy

Clause 50, encompassing Sections 57B-57D pertaining to Applications for Residential Tenancy, embodies a commendable intent, yet certain reservations warrant consideration, particularly regarding the restrictions outlined in Section 57C (2)(b) and (d) concerning requests regarding Breach Notices and Bond Claims.

The inability to request information regarding disputes and breaches poses a significant challenge in providing owners with comprehensive insight into prospective tenants' rental histories. Access to such information is vital for owners to make informed decisions regarding the selection of tenants for their investment properties. Understanding the context of any past breaches or disputes can provide crucial context to evaluate applicants' suitability as responsible tenants.

Given that disputes often culminate in bond claims, the ability to discern the circumstances surrounding these claims is indispensable. Distinguishing between voluntary bond claims and those prompted by tenants' negligence or abandonment is imperative in assessing applicants' reliability in fulfilling their tenancy obligations.

This proposal overlooks the practical realities of property management, where agents and self-managing Owners rely on comprehensive tenant histories to fulfill their responsibilities to property owners. Preventing disclosure of tenants' rental histories with breaches or disputes compromises owners' ability to make informed decisions regarding tenant selection, potentially exposing their valuable assets to unnecessary risk.

To enhance the effectiveness of the proposal, it is recommended that Section 57B(4) be augmented to include the request for contract/letters of offers as they serve as vital indicators of future income for tenants transitioning to new roles, particularly relevant in scenarios involving relocating individuals or separating couples relying on home sale proceeds as evidence of financial stability.

Additionally, clarity is warranted regarding Section 57C (2) (e) to ensure tenants have the freedom to provide information regarding income and savings, especially pertinent for self-employed individuals and those with savings demonstrating their ability to meet rental obligations despite limited traditional income documentation.

In summary, while the proposal's objectives are laudable, modifications are necessary to address the practical intricacies of tenant screening and selection, safeguarding owners' interests while maintaining tenants' privacy rights.

57D Verification of Identity for application

Section 57D regarding Verification of Identity for application raises concerns regarding the adequacy of the proposed measures in ensuring security and efficiency in the tenant application process.

While privacy restrictions on data storage and sharing are already in place within the industry, the unique nature of property management, where access to tenants' private residences is commonplace, underscores the importance of robust identity verification procedures. Owners entrusting their valuable assets to tenants necessitates thorough verification processes to mitigate risks.

The proposal to merely sight identification documents falls short in providing clarity on the timing and method of verification. Questions arise regarding whether identification should be sighted during property inspections before the application process or upon submission of the application, impacting the efficiency of application processing and tenants' access to rental properties.

This approach diverges from broader community practices, where verification of identity is a standard requirement for various transactions and interactions, such as hiring a car or engaging with government entities. Singling out the real estate industry with relaxed identity verification standards is difficult to justify, particularly given the significant financial and security implications involved.

Moreover, considerations must be made regarding the duty of care owed to property management staff, particularly those, often female, who may enter properties alone. Ensuring staff safety encompasses verifying the identity of individuals accessing properties, safeguarding against potential risks or threats.

Furthermore, insurance companies providing Owner insurance are likely to require proof of identity in the event of claims, further underscoring the importance of robust verification procedures.

In summary, while efficiency in application processing is important, it should not come at the expense of compromising security measures or disregarding industry standards. Adequate identity verification protocols must be implemented to uphold the safety and integrity of property management operations.

Clause 52 - Replaces sections 83 and 84 and inserts Sections 84 A and 84B

Clause 52, which replaces sections 83 and 84 and inserts Sections 84A and 84B, introduces a fee-free method for rent payment, which is ostensibly redundant given the existing provisions in Section 84 that mandate offering a fee-free payment option if a rent payment method incurs costs to the tenant.

The proposal appears to unfairly target the real estate industry, as numerous other sectors, such as daycares and gyms, also utilize payment platforms without similar mandates. Many tenants appreciate the convenience and reliability of direct debit programs for rent payments and other invoices. Furthermore, the decreasing use of cheques underscores the necessity of adapting to modern payment methods.

However, requiring tenants to pay rent via EFT directly into the Trust Account poses significant security and privacy concerns, as it necessitates disclosing sensitive bank account details to numerous tenants, potentially jeopardizing the integrity of the Trust Account. Managing and maintaining a Trust Account entails considerable expenses, compounded by regulations stipulating that interest earned on such accounts be remitted to the government.

The proposed measure effectively shifts the financial burden onto small business owners, who must absorb these costs or pass them on to property owners, thereby diminishing returns on investment. Instead, a more equitable solution could involve banks absorbing Trust Account fees using a portion of the interest revenue generated.

Ultimately, this proposal represents a disproportionate imposition on small business operators within the real estate industry, who deserve support rather than additional

financial burdens from the state government.

Clause 54 New Section 136AA Evidence of bond claim

The proposed timeframe of 14 days to substantiate a bond claim raises practical concerns, particularly regarding the logistics of obtaining quotes from tradespeople or arranging specialized services within the allotted time frame. Moreover, adequate time is necessary to compile necessary information and present it to property owners for instructions before communicating with tenants.

For instance, securing a quote for carpet replacement due to tenant damage requires not only obtaining quotes but also adjusting amounts to account for depreciation in compensation claims. While 14 business days may seem more feasible, it introduces conflicts with other clauses specifying time limits.

It's essential to consider whether the Residential Tenancies Authority (RTA) will be held to minimum time frames for providing dispute conciliation services, and if Queensland Civil and Administrative Tribunal (QCAT) will be subject to similar constraints in hearing cases.

Furthermore, subsection 136AA (5) (b) mentions contacting an emergency contact listed on the agreement, yet Section 57B(4) restricts the request for such information unless it falls under the category of "other information prescribed by regulation" in subsection (g). This presents a discrepancy that warrants clarification and alignment within the legislation.

Clause 57 Amends Section 166 Water Charges

While providing tenants with copies of water invoices from the council is standard practice and poses no issues, the introduction of subsections 166 (6A-6B-6C) necessitates documentation from the water supplier to charge tenants for water usage. As currently drafted, this provision overlooks the practicalities of the water charging process, particularly in terms of meter readings at entry and exit to generate prorated invoices, supported by photographic evidence of the water meter, which tenants can freely access for confirmation. Moreover, it disregards the use of private slave meters to determine individual unit water usage, as these are typically located within property boundaries.

The proposal, while well-intentioned, fails to align with the practical realities of water charging procedures. A consultation with stakeholders such as the Real Estate Institute of Queensland (REIQ) could have informed the drafting process to ensure that the clause achieves its intended purpose without impeding existing practices.

Additionally, inconsistencies in language and timeframes within the document are evident, with various clauses referencing different timeframes for actions such as payment of water invoices or processing structural change requests. Example – 4 weeks, 28 days and 1 month are all referenced in different clauses. Achieving consistency in terminology and timeframes throughout the document would enhance clarity and coherence in the legislation.

Clause 63 Section 195A (3)

Consideration should be given to amending "in an emergency" to reflect including emergency repairs for clarity as emergency repairs are defined elsewhere in the Act but an emergency alone is not.

Clause 65 and all associated clauses - Alterations to fixtures and structural changes – Section 207 to 209

Clause 65 and its associated clauses concerning Alterations to Fixtures and Structural Changes (Sections 207 to 209) warrant scrutiny. The current breadth of definitions regarding fixtures and structural changes complicates the Owner's ability to effectively evaluate and respond to tenant requests. The latitude afforded to Owners to impose conditions exacerbates this issue, particularly considering the potential ramifications of a tenant's failure to remove said fixture or structural alteration upon lease termination. While recourse through QCAT claims exists to mitigate costs incurred, the practical implications,

such as the substantial expense associated with reverting alterations, underscore the need for clarity and accountability in such matters.

My concern extends to tenants, who may lack adequate understanding of trade practices and material expenses, thereby failing to anticipate the financial obligations of removing structural changes made during tenancy. The proposition that Owners compensate tenants for permanent alterations introduces financial strain, as Owners may face unanticipated expenses for which they had not budgeted. Moreover, questions regarding warranty obligations and the timing and manner of compensation remain unresolved.

In light of these complexities, the proposal necessitates comprehensive guidelines and frameworks prior to its viable implementation. Without such provisions, the practical execution of these regulations risks ambiguity and potential economic hardship for both Owners and tenants alike.

Clause 72 - Section 357A Reletting Costs

Clause 72, which pertains to Section 357A regarding Reletting Costs, proposes changes that eliminate the owner's entitlement to compensation for lost rent when a tenant terminates the agreement in a manner not permitted under the Act. This proposal fails to recognise the potential variability of future market conditions, assuming that current conditions will persist indefinitely.

By capping reletting costs at the lesser amount of expenses incurred by the owner, such as letting and marketing costs, or the equivalent rent for the period between vacating the property and securing a new tenant, the proposal places a significant financial burden on property owners. This lack of certainty regarding rental income and tenancy duration undermines owners' confidence in entering legally binding contracts with tenants, as they risk substantial financial losses if tenants terminate agreements prematurely.

There should be repercussions for tenants who breach legally binding contracts in a manner that reflects the costs incurred by the owner, akin to other areas of contract law. Failure to hold tenants accountable for their contractual obligations imposes undue financial strain on property owners and diminishes their security over rental income and tenancy duration.

Clause 80 Part Two Personal Information
Section 457E Requirements about collected information:

Clause 80, specifically addressing Section 457E regarding Requirements about collected information, proposes destroying information three years after the termination of a residential tenancy agreement. However, this timeframe may hinder our ability to furnish a future rental reference for the tenant, especially considering that tenants commonly reference details of previous agreements under Section 57B(4).

Moreover, personal information contained within routine inspection reports, which would be subject to destruction under this provision, is frequently requested by insurance companies to evaluate claims. The retention of such information beyond the proposed three-year period may be necessary to facilitate insurance claim processes effectively.

Clause 45 Insert Section 519A Code of Conduct

Regarding Clause 45, which inserts Section 519A pertaining to the Code of Conduct, we

are generally supportive of implementing such a code and endorse agents who uphold professionalism and adhere to the law. It's important to acknowledge that the majority of tenants also conduct themselves appropriately.

However, for a code of conduct to be effective, it must apply to all parties involved in property transactions, including agents, owners, tenants, and self-managing owners. Furthermore, there should be clear consequences for any breaches of the code. Currently, there are existing mechanisms within legislation that often go unenforced, rendering them ineffective. Therefore, it is imperative that the code of conduct be accompanied by robust enforcement measures.

Additionally, measures should be in place to discourage frivolous and vexatious claims under the code of conduct. It's crucial that the code supports and recognizes the indispensable role property managers play in the industry and fosters an environment conducive to professionalism and mutual respect among all stakeholders.

Amendments to the Property Occupation Act 2014

Regarding the amendments to the Property Occupation Act 2014, we generally support the introduction of Compulsory Professional Development for License and Registration Holders. However, the effectiveness of this training hinges on its relevance and applicability to the diverse roles within the property industry.

My concern lies in the potential focus of the training on sales-oriented modules, particularly for Property Managers who currently operate under a sales registration. This approach overlooks the opportunity to establish a specialized property management registration, which could enhance the credibility of property managers and recognize the crucial role they play in ensuring successful tenancies.

It is noteworthy that there is no corresponding requirement for self-managing property owners to undergo any form of training or upskilling. This lack of parity raises questions about the fairness and consistency of the regulatory framework within the property sector.

Thank you.

Regards,

Jennifer Bucknell