



Speech by

**PHIL REEVES**

**MEMBER FOR MANSFIELD**

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**PROPERTY AGENTS AND MOTOR DEALERS AMENDMENT BILL**

**Mr REEVES** (Mansfield—ALP) (3.54 p.m.): I rise to speak in support of this important bill. I, too, commend the minister for this comprehensive package—a package aimed at protecting Queensland, Australian and overseas investors in residential property in Queensland and booting the crooks out of the industry.

There are many stories about people being ripped off by unscrupulous marketers in Queensland. Not only are individuals suffering as a result of the conduct of these people but so, too, is Queensland's national and international reputation as a safe place to invest in property. If unconscionable conduct in the residential property market is not addressed in the way proposed by this bill, the ramifications to Queensland and Queenslanders will be significant.

I would like to mention a particular example of how some marketers operate and the damage they have caused. In May 1999 a couple from Toowoomba received an unsolicited telephone call about an investment property on the Gold Coast. The telemarketer emphasised the tax advantages of such an investment. The couple agreed to meet the sales representative, who showed them six properties and sold them a property priced at \$195,000. One hundred per cent finance was arranged by the salesperson through a finance broker after the purchasers were assured about the capital growth of the property of 9.2 per cent. The couple was also promised a guaranteed rent return of \$250 per week. They were told that the net result of this would be that they would have a repayment commitment of zero dollars for the first year and then less than \$15 per week thereafter. They were also told the property would be debt free in five years.

As part of the deal, the couple paid \$800 for a valuation arranged by the marketer. However, they neither received nor sighted a copy of the valuation and had to rely on what they were told by the marketer about the property's value. Having bought the property, the couple discovered that the rent return was only \$150 per week—not \$250 as represented—and, after costs, their return was only \$130. They were also saddled with a repayment schedule they could not maintain, having factored in the rent as part of the repayments.

To add to their woes, they decided to cut their losses and sell in December 2000—one and a half years after the purchase of the property. What a shock they received when listing their property with a reputable real estate agent—probably unlike the one the member for Ipswich West was talking about—who appraised their property at only \$125,000, which would have resulted in a \$70,000 capital loss in just 18 months. Now the couple are lumbered with a property they cannot afford to pay for or to sell without significant losses on their part.

The activities of the seller, the finance broker and possibly other people involved in the sale of the property to the couple would be covered by this bill. From the commencement of the relevant provisions of the legislation, those types of activities may result in monetary penalties up to \$250,000 per breach and fines of up to a similar amount. Compensation to victims of up to \$250,000 can be ordered. Marketeers can be ordered to immediately stop engaging in certain activities and can be subjected to a public examination in relation to these activities. If people are required to pay for a valuation as a term of contract, the seller will be forced to provide a copy of the valuation to the buyer. The marketer can be prohibited from being involved in the promotion, marketing and sale of the residential property into the future.

In another case a marketeer approached a Japanese couple who had only recently settled in Australia to invest in real estate on the Gold Coast. Not being familiar with real property values in Queensland compared to Japan, and not being familiar with our currency, they were easy targets for the sales pitch. In this case the marketeer ran the pitch, and the couple was convinced to purchase a property for a quick resale, being assured that the market was buoyant and that quick profits were almost guaranteed. When they were primed to buy, the marketeer then handed the buyers over to the tame real estate agent to complete the deal. Tame real estate agents depend solely or almost exclusively on the prospects provided by these marketeers for their commissions.

They settled on a property at Hope Island for \$850,000. Once the deal was finalised, they returned to the same real estate agency to sell the property. The agency agreed to list the property at \$300,000—an instant loss of \$550,000. The bill prohibits this type of conduct that resulted in this Japanese couple being ripped off. Fancy! Five hundred and fifty thousand dollars! That was the welcome to Australia that these poor people had. This bill prohibits the type of conduct that resulted in the Japanese couple being ripped off.

In the third case, a marketeer of management rights on the Gold Coast contacted a New Zealand couple in Auckland. The couple were convinced that management rights were a great opportunity to provide them with an income and to allow them to settle in Australia. They were keen to accept an offer to be flown to the Gold Coast to inspect several complexes where management rights were available. This was in October 1998. The couple were shown many housing complexes in the course of one day and eventually were convinced to purchase management rights and a residential unit in a building complex at Coomera for \$495,000.

The marketeer produced cash-flow statements and charts to convince the couple that unless they had negative gearing they would be facing taxation difficulties. To offset those difficulties, the marketeer advised the couple to purchase an investment property at Miami, which would have resulted in taxation advantages and a rental income. The couple agreed to purchase the house at Miami for \$405,000. They returned to New Zealand and organised to sell their Auckland property, which, together with a loan from the developer of \$364,000, made up the purchase of the house at Miami.

Upon the settlement of the property purchase at Miami, the couple returned to the Gold Coast to begin their new life, only to be advised that the purchase of the management rights had fallen through, because the bank had refused to finance the loan. After further inquiries the bank advised the couple that their loan had been refused on the basis that they were already overcommitted on the mortgage of the Miami property and that the bank's valuation of the property indicated that the loan was much higher than the value of the property.

So here we have a couple who have no prospect of obtaining an income—having failed to secure the management rights that they first sought and were promised—and stuck with a house worth at least \$75,000 less than what it was purchased for. Incidentally, they were also promised that if any purchase eventuated, the marketeer would refund the air fare of \$1,000. They received only \$250 of this amount.

This bill will not only prohibit this type of behaviour by marketeers but also will offer an avenue through which these people could seek compensation. The Minister for Fair Trading and her department have courageously included in the bill new guidelines for ethical business conduct in the property marketing industry. She should be applauded for her tough stance, which sends a crystal clear message to all of those crooks who have been ripping off investors. The utter contempt for honest investors and the sheer greed of marketeers is shown by the fact that they call their clients wood ducks. They lead them into shonky deals like lambs to the slaughter. I know just how determined the minister and the department are to put an end to this unconscionable conduct. She has delivered in spades with this bill.

Even serial letter writers such as the self-proclaimed property watchdog, Tim O'Dwyer, must be tempted for the very first time to give credit where it is due. I know the Minister for Families knows what Tim O'Dwyer is like.

**Ms Spence:** He's one of my constituents.

**Mr REEVES:** The member is lucky! He should have the spine to publicly applaud the minister's response to this problem. But I will not be putting my house on it. Giving credit would not fit in with Mr O'Dwyer's self-promotion campaigns.

**Mr Springborg:** Not without an independent valuation.

**Mr REEVES:** That is correct. He has a vested interest. In no way is he independent, as he seeks to have people believe. He, too, is after his share of the spoils. One has to ask: can a leopard change its spots? After all, recently he confessed to having been a link in the marketeering rip-off chain. For the benefit of Mr O'Dwyer and his group of self-promoting sycophants, I will touch on what I believe to be the key components of this bill. To tackle marketeers, the PAMD Act will be amended to include three new provisions prohibiting unconscionable conduct, misleading conduct and false and misleading

representations in relation to residential property sales in Queensland. That will cover not only licensed and unlicensed property developers and real estate agents but also other persons involved in the sale, promotion and marketing of residential properties such as valuers, solicitors, financial advisers, finance brokers and financiers.

In considering whether the conduct is unconscionable, the court or tribunal may have regard to such things as whether undue influence or unfair tactics were used by the marketeer; the amount for which the buyer could have obtained a similar property from somewhere else; the relative strength of the bargaining positions of the marketeer and the buyer; the extent to which the marketeer failed to disclose to the buyer any relationship with others involved in the sale of the property; whether the buyer was given an opportunity to obtain independent legal and valuation advice; and, finally, the extent to which the marketeer acted in good faith towards the buyer.

False representation about the following things is outlawed: the price payable for the property, the characteristics of the property, the value of the property, the potential income from leasing the property, the dates and sale prices for previous sales of the property, and how the purchase of the property may affect the buyer's income tax.

I congratulate the minister on this legislation. Banks and finance companies receive a valuation on a person's property before they will lend that person money. One of the banks has agreed that it will show the valuation of the property to the people concerned. I think that all finance companies and all banks should in good faith show the valuations that they receive on properties prior to people paying money for them. That would show transparency in the dealings of the finance companies or banks. If they want to be a good corporate citizens, they should adopt that practice. I know that one of the banks—and I do not know whether the minister wants to mention the bank; she can in her reply—has agreed to do that. I think that all banks and finance companies should do that.

**Mr Cummins:** Which bank?

**Mr REEVES:** I do not think that it was that one. I commend the bill to the House.

With reference to my speech this morning, I would like to thank the members of the House because I have gone a long way towards getting out of jail next Wednesday. So far I have raised \$520. I have to raise only another \$480 and then I will not be put in prison next Wednesday for Kids Help Line, which is also funded by the Department of Families. Kids Help Line thanks the minister for that support. So I thank the members of parliament. If anyone has missed out on donating, could they please come and see me and get me out of jail on my birthday on 19 September. I commend the bill to the House.

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