



Speech by

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MEMBER FOR THURINGOWA

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RESIDENTIAL SERVICES [ACCOMMODATION] BILL

Ms PHILLIPS (Thuringowa—ALP) (12.23 p.m.): I rise to support the Residential Services (Accommodation) Bill 2002. In so doing, I wish to focus on a particular key feature of this proposed legislation, that is, the introduction of a recognised process to address disputes which may arise between residential service providers and tenants. Under current legislation, when a dispute arises, the service provider and the resident must work it out between themselves. Often this does not happen, as we all know. Human nature is such that sometimes people are unable to resolve their dispute. Residents are often reluctant to complain, and the outcome of any dispute may not always be a fair one.

The approach adopted by this legislation has been to develop preventative measures to reduce the likelihood of disputes occurring. Provisions such as setting out the obligations of each party, compulsory written agreements, prescribed house rules, defined rules for entry and processes to deal with breaches of agreements will give residents and service providers a clearer understanding of their obligations to each other.

However, no legislation can guarantee that there will be no disagreements. Therefore, this bill includes a dispute resolution process to help the parties work through their disagreements to achieve workable outcomes as quickly and as simply as possible. There is no conciliation and dispute resolution process currently operating in the residential services sector, yet the Residential Tenancies Act provides for such in relation to tenancy agreements. Currently, disputes about breaches of agreements must occur through the court system.

This accommodation bill will establish a three-stage dispute resolution process to deal with residential services disputes. The process is similar to that applying to other residential agreements under the Residential Tenancies Act. This staged approach, with parties required to go through each step of the process, has proved to be effective over many years in the wider residential rental market.

The bill also makes amendments to other legislation in order to achieve its objectives. It amends the Residential Tenancies Act 1994 to provide for the administration and enforcement of the legislation by the Residential Tenancies Authority. The Residential Tenancies Authority was established in 1989 and has considerable experience in administering legislation which regulates the broader residential rental industry. Its work is highly regarded and the government decided to build upon an existing and recognised base for these new arrangements.

The bill also amends the Small Claims Tribunal Act 1973 to provide tribunals with the power to deal with accommodation disputes. The use of conciliation, in particular, as an alternative dispute resolution procedure has been very effective in resolving disputes quickly and simply. In terms of the legal system, the Small Claims Tribunal has also proved to be a more accessible and quicker way to resolve rental disputes.

The three steps outlined in the bill for the dispute resolution process are: firstly, self-resolution; secondly, if that is unsuccessful, conciliation through the Residential Tenancies Authority dispute resolution service; and, finally, if the dispute is still unresolved, a hearing with the Small Claims Tribunal. The first step is for parties to attempt to resolve an issue relating to the residential service agreement themselves or through some applicable dispute resolution process. Self-resolution by discussion between the parties is the quickest and best way to deal with a dispute. If the dispute is about an alleged breach of the residential service agreement, either the resident or the service provider, or both,

will be able to contact the Residential Tenancies Authority for information about the legislation and the procedures to follow.

Part 10 of the bill sets out a conciliation process as a next step. It will apply to suitable cases and is triggered by either party making a dispute resolution request to the Residential Tenancies Authority. It is understood that the conciliation process has been effective in other sectors of the rental industry in achieving a satisfactory settlement without the need for formal court intervention.

If the parties cannot reach an agreement, then the Residential Tenancies Authority's dispute resolution service can help. The Residential Tenancies Authority offers a free conciliation service which aims to help parties resolve their dispute to achieve a successful outcome for all. The Residential Tenancies Authority's dispute resolution officers and tenancy conciliators may be able to help resolve the dispute with just a few telephone calls or, where appropriate, by a face-to-face meeting or even a telephone hook-up between the parties and an impartial conciliator. Any special needs of clients can also be catered for.

The Residential Tenancies Authority can help the parties generate a written agreement at the settlement of the dispute, which will then become a term of the residential services agreement. Participation in conciliation through the Residential Tenancies Authority's dispute resolution service is voluntary. However, the parties cannot apply to the Small Claims Tribunal for a hearing unless dispute resolution has at least been attempted through the Residential Tenancies Authority. If the matter cannot be resolved, the Residential Tenancies Authority will issue formal advice of an unsuccessful dispute resolution, which the Small Claims Tribunal will require before it will accept an application.

In the Residential Tenancies Authority's experience, self-resolution and conciliation are the most effective means of resolving disputes, particularly where the intention is for an ongoing relationship between the resident and service provider. This is because the parties have a greater involvement in negotiating the outcome in terms of what is acceptable to each of them and are more likely to adhere to an agreement where they have both had input. However, sometimes outcomes cannot be negotiated and the parties will still need to go to the Small Claims Tribunal for a decision.

Part 11 covers the situation where the conciliation process is either not suitable for the matter or conciliation has failed to reach resolution of the matter. If the preliminary steps that I have outlined have been followed, either party can apply to the tribunal. That is the third step. The usual applications will probably concern disputes about whether there is a breach of a RSA; disputes about periods of notice in notices to remedy a breach or notices to leave; or disputes about entry to a room or the removal of a resident. The tribunal will have a wide range of powers and orders that it can make.

The outcome of the tribunal is binding on the parties and may not necessarily reflect what either party has sought. The notice periods for dispute resolution processes for breaches and to terminate agreements were formulated after consultation with stakeholders and taking into account the communal nature of residential services premises and facilities.

In conclusion, the introduction of a dispute resolution process is one of the most important features of this bill. The use of this process will go a long way towards achieving better outcomes for both residents and clients within this sector. I commend Minister Schwarten and his staff for the considerable work and community consultation involved in developing this very important legislation, which clearly operationalises this Labor government's social justice agenda. I am proud to be part of such a government and I commend the bill to the House.