



Speech by

LEX BELL, MP

MEMBER FOR SURFERS PARADISE

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RESIDENTIAL TENANCIES AUTHORITY AND OTHER LEGISLATION AMENDMENT BILL

Mr BELL (Surfers Paradise—Ind) (5.18 p.m.): In rising to speak to the bill, I will limit myself to the aspect that relates to databases. I was comforted to read in the minister's speech that a fair balance was being sought between the rights of tenants and the rights of lessors, for in legislation of this nature it would be easy to overlook the rights of lessors. After all, a lessor uses a database not just to find out whether a tenant can pay the rent but also whether the tenant will be a suitable tenant for that property and whether the landlord will be happy having that tenant there and should choose that tenant over another.

I did have a few questions upon which I would invite the minister to ponder in connection with clause 27 of the bill, which inserts the new section 284C. One is whether the listing, in accordance with the regulation, will in some manner be protected from the laws of defamation. At the moment, of course, one of the reasons that databases are kept secret is so that there cannot be a plethora of defamation cases. One cannot argue against the fact that a database should be correct and that it should be verified, but on the other hand one does not want a situation in which it becomes open slather for tenants from hell to be able to say, 'Thank you very much for opening this up. Now I can take defamation proceedings.'

I am also concerned—and I would invite the minister to consider this—about how this legislation will affect tenancy databases which are maintained interstate. I do know that TICA, one of the biggest of the databases, actually operates interstate. I wonder how this bill, assuming it becomes legislation, will be able to have force and effect in respect of interstate databases. It would be somewhat ridiculous if we have restrictions on Queensland databases but there were no such restrictions on interstate ones unless and until at some future time—this is very nebulous—there might be some national restrictions or legislation.

I also invite the minister to give some thought to when an agreement has ended. One cannot make a listing on a database until the agreement has ended. Has the agreement ended when the time prescribed in the lease document runs out, even if the tenant is holding over? Has an agreement terminated when a notice of termination is given, even though the tenant might not have moved out? I think it is important to clarify these matters and I would invite the minister to do that.

My biggest concern, however, is when one reflects upon what will be prescribed reasons for listing on a database. Perhaps it is a situation in which the devil is in the detail. I would be very, very much happier this evening if I had before me all of the reasons that are going to be prescribed by the regulation. Right now we do not know how liberal or how restrictive that will be. We are really grappling with the phantom.

I do not intend to vote against this bill on that basis, but I would point out with great respect that the only manner in which members of the House can take exception to anything which is in the prescribed reasons set out in the regulation yet to come, or can take exception to something that is omitted from that regulation, is to move a disallowance motion for the whole of the regulation. I am informed by my good friend on my immediate right that it is not possible to amend a regulation, that one can move only for its disallowance. Therefore, it is very difficult for those of us who have not seen what is going to be in the regulation to know whether we are going to be happy or not happy and to know how we are going to deal with the matter if we feel that matters should be prescribed and are not prescribed.

However, for the moment I will support the legislation. I think in general principle the provisions relating to databases and the other contents of this bill are reasonable and supportable. I am, however, very worried about the detail of the prescribed reasons, that they may be so restrictive that they will be of no assistance at all in helping a lessor make a determination as to whether a tenant applicant for a particular flat, apartment or house is going to be a good tenant and one that will make the lessor happy.