



Speech by  
**Ros Bates**

**MEMBER FOR MUDGEERABA**

Hansard Thursday, 17 September 2009

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## **PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL**

**Ms BATES** (Mudgeeraba—LNP) (12.00 pm): Today I rise to make a contribution to the Personal Property Securities (Commonwealth Powers) Bill 2009, which will refer certain matters relating to security interests in personal property to the Commonwealth parliament to make laws about those matters.

This will bring Queensland into line and support the federal government's Personal Property Securities Bill first introduced by the Howard government in 2007. It will replace 70-plus Commonwealth, state and territory acts administered by 30 government agencies with a single national law and will be supported by a national online system for registering interests in personal property securities. This move will help to improve the efficiency and certainty around all forms of personal property security.

The reasoning behind the Personal Property Securities (Commonwealth Powers) Bill 2009 of the Queensland state government is explained quite succinctly on the federal Attorney-General's website. It states—

It has been recognised for many years that Australian laws governing security interests in personal property are complex, inadequate, and result in unnecessary compliance and transaction costs.

To date, the system involved the Commonwealth, states and territories having their own regimes for registering security interests in various forms of personal property, encompassing multiple pieces of legislation.

Personal property is any form of property other than land or buildings and fixtures which are legally treated as forming part of land. Personal property can include tangibles (eg cars, boats, machinery, crops) and intangibles (eg shares, intellectual property, receivables and contract rights).

If an individual or business wants to borrow money they will often find it easier and may obtain a lower rate of interest if they offer a piece of property as security. Personal property that might be offered as security for a loan includes cars, or the trading stock and equipment of a business.

In Australia today, there are significant limitations on the use of personal property as security due to complexities and gaps in the arrangements for registering security interests. The rules for registering an interest and whether an interest can be registered at all vary widely.

The Commonwealth, States and Territories all have their own personal property schemes with separate registers and legislation relating to those registers.

The current requirements for registering a security interest in personal property vary depending on the type of personal property, where it is located and whether the property belongs to an individual or a corporation.

The aim of Personal Property Security Reform is to improve the ability of individuals and businesses, particularly small-to-medium size businesses, to employ all their property in raising capital. Personal property securities reform has been successfully implemented in the United States, Canada and New Zealand, where the reforms have been widely accepted, as an improvement on previous arrangements.

Individuals or businesses wanting to borrow money will tend to obtain a lower rate if they offer a piece of property as security. In Australia there have been significant limits on the use of personal property as security for a loan.

Currently most of the States, Territories and the Commonwealth Government maintain registers for some Personal Property Securities. The introduction of the Personal Property Securities Register will bring all of this information together in the one, definitive register of personal property securities.

COAG gave in-principle support in April 2007 for the establishment of a national system for the registration of personal property securities, supported by a referral of legislative power by the states to the Commonwealth. COAG further agreed, in principle, that the states and territories would allow the migration of data from existing registers. The Commonwealth bill will establish a single national law governing personal property securities and the national register for all personal property security interests, known as the Personal Property Securities Register, the PPS Register.

The objective of personal property securities law reform is to remove uncertainty around this area of law, open up greater opportunities for business to obtain finance, deliver lower costs for financing and provide a single national register for the recording of security interests in personal property. The establishment of a single national register for the registration of security interests in personal property and a uniform national law regulating the creation, priority and enforcement of security interests in personal property are the only reasonable and appropriate means of achieving the aims of the personal property securities law reform. In his second reading speech, the federal Attorney-General said—

The Personal Property Securities Bill will increase certainty for all users of secured finance by removing barriers that inhibit businesses and individuals from securing credit over personal property. We believe it will ultimately bring down the cost of obtaining credit at the same time as increasing the propensity of lenders to lend to small business, thereby increasing the availability of credit.

By reducing complexity and introducing greater consistency among the different kinds of secured finance, the bill will generate wide-ranging benefits for all parties who secure personal property to raise finance.

This bill will meet the needs of businesses and other users of secured finance. It will simplify the way they conduct their business and, more importantly, it will contribute to the growth of productivity and jobs in this country.

In relation to the referral bill, which is also encompassed in this bill, the state Minister for Tourism and Fair Trading noted the following in his second reading speech: the referral bill will exclude from the referral key examples where the Commonwealth PPS laws will not invalidate the state law and an example of such laws are the Criminal Proceeds Confiscation Act 2002 and the Police Powers and Responsibilities Act 2000, which currently enable the state to confiscate property obtained through the proceeds of crime and vehicles for hooning and other prescribed offences.

In the electorate of Mudgeeraba, hooning is cited as one of the major crime issues in our local areas. 'Hoon Watch' was launched by the Mudgeeraba Action Group in 2008 on *A Current Affair* and went national. Subsequently, with residents in Mudgeeraba utilising the 'Hoon Watch' forms, the number of cars which have been impounded by our hardworking local police has increased threefold. Whilst it is good to see that this bill will enable our local law enforcement officers to still impound cars, I am sure that if you asked the residents of Mudgeeraba what they would prefer the answer would be even tougher laws, including longer impoundment of cars and repeat offenders having their cars crushed. Having said that, I support the intent of this bill and commend the bill to the House.