




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

Record of Proceedings, 20 November 2013

PROPERTY OCCUPATIONS BILL

Introduction

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (7.45 pm): I present a bill for an act to provide for the regulation of the activities, licensing and conduct of property agents and resident letting agents and their employees and to protect consumers against particular undesirable practices, to amend the Body Corporate and Community Management Act 1997 for particular purposes, and to make minor and consequential amendments of the acts stated in schedule 2 for particular purposes. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Property Occupations Bill 2013 [[4100](#)].

Tabled paper: Property Occupations Bill 2013, explanatory notes [[4101](#)].

Madam Speaker, I am pleased to present a bill for an act to provide for the regulation of the activities, licensing and conduct of property agents, resident letting agents and their employees and to protect consumers against particular undesirable practices. The bill will also reduce red tape and regulation for industry, remove the unnecessary warning statement and information sheet requirements that are associated with the sale of residential property, and make minor and consequential amendments to particular acts.

Businesses and individuals performing the functions of a real estate agent, real property auctioneer or resident letting agent for others for reward are currently regulated under the Property Agents and Motor Dealers Act 2000, along with a range of other separate and diverse industries. Industry has long been calling for a reduction in red tape and for the cumbersome and complex Property Agents and Motor Dealers Act 2000 to be split into separate, industry-specific pieces of legislation. This bill is one of four bills that will facilitate the repeal of the Property Agents and Motor Dealers Act 2000 and replace it with three industry-specific acts, supported by a financial administration act containing common trust account obligations and claim fund provisions applying across the industry-specific acts. Together the bills will deliver a contemporary legislative framework that is responsive to the needs of the industries regulated under the Property Agents and Motor Dealers Act 2000 and that promotes growth, innovation, creativity and productivity.

However, the government is committed to not only splitting and repealing the Property Agents and Motor Dealers Act 2000 but also reducing red tape and unnecessary regulation for industry. That is why a robust red-tape-reduction review of the draft split bills has been conducted in consultation with stakeholders. This government is determined to support the property sector as it goes about the business of providing jobs, affordable homes and investment opportunities for Queenslanders as well as world-class tourism facilities for our domestic and international visitors. By getting property policy right, the government will create an environment where the property sector can meet its potential in supporting construction and tourism—two of the four pillars of our economy.

The bill maintains the policy objective of the Property Agents and Motor Dealers Act 2000, that being to provide a system for licensing and regulating the industry that achieves an appropriate balance between the need to regulate for the protection of consumers and the need to promote freedom of enterprise in the marketplace. However, the bill also significantly reduces the level of regulation of the property industry by removing red tape that simply adds unnecessary costs and complication for business, while providing no meaningful protection or benefit for consumers or the broader community.

A key amendment included in the bill will deliver on the government's commitment to streamline home sale contracts by removing cumbersome and unnecessary requirements about warning statements for home sale contracts. The warning statement requirements of the current legislation significantly add to the volume of paperwork and complexity associated with home sale contracts. Worse still, the excessively prescriptive nature of the provisions of the current legislation can lead to contracts, which have been entered into in good faith, being avoided by buyers on very technical grounds. This is not a fair balance of the rights and interests of buyers and sellers.

In place of the existing provisions, the bill simply requires a brief statement to be incorporated into residential sales contracts above the signature block recommending buyers obtain independent legal advice and a valuation before signing a contract. Rather than drowning buyers in documents and unhelpful detail, this simple approach draws buyers' attention to what they really need to know.

The bill also deregulates the maximum commissions payable to property agents and resident letting agents. Queensland is the only state that regulates to cap property agent commissions. While capped commissions were intended to protect consumers, unfortunately what was intended to be a maximum rate has generally become a default rate for commissions.

Deregulating commissions is intended to put downward pressure on commissions by removing the perception that the maximum rate of commission is a standard rate, thereby stimulating increased competition in the market on commission rates. While deregulating commissions is expected to deliver benefits for consumers, the government knows this is a significant change for Queenslanders selling their homes or leasing an investment property. Accordingly, the Office of Fair Trading will undertake a community information and education campaign to support the deregulation of property agent and resident letting agent commissions in Queensland. The campaign will emphasise to consumers the importance of shopping around and negotiating commissions, fees and charges before appointing a property agent or resident letting agent.

The government knows that empowering consumers with practical information about their right to negotiate commissions, fees and charges with prospective agents is an important part of promoting competition and putting downward pressure on commissions, fees and charges. In developing the campaign, the Office of Fair Trading will consult closely with peak consumer groups and representatives about how best to engage with the community about the deregulation of commissions in Queensland.

The bill provides new exemptions from the act for property agents acting for particular sophisticated parties who do not need to be afforded the protections under the bill. This initiative will reduce unnecessary licensing and compliance costs for businesses dealing in large-scale, sophisticated commercial transactions.

The bill also eliminates reporting and paperwork that unnecessarily imposes costs on industry, buyers and sellers including, for example, by:

- significantly streamlining the approved forms for appointments;
- removing the requirement for an employment register to be maintained;
- removing the prescriptive requirements about the display of a licence;
- reducing the restrictions relating to licensees being in charge at a place of business;
- removing the lawyer's certificate requirements;
- removing the requirement for a prescribed notice to be provided if the sale is in relation to vacant land; and
- removing the requirement for a buyer to state in a termination notice the relevant section of the legislation that is being used to exercise their cooling-off rights.

A number of amendments to clarify particular provisions and improve the operation of the legislation have also been provided for in the bill. For example, the bill clarifies the meaning of residential property, clarifies that the disclosure of a price guide for a property that is going to auction is banned, and clarifies that a separate appointment is not required for conjuncting agents.

Consistent with the other two industry-specific agents bills, the bill also makes a number of changes to the licensing requirements including, for example, by consolidating and rationalising the licence categories and removing the requirement for directors of licensed corporations to hold a licence.

With respect to the regulation of resident letting agents, the bill significantly reduces the level of regulation and red tape for these agents. The bill removes the requirement for a resident letting agent to satisfy the chief executive that they have body corporate approval and that they will live onsite to be eligible for a licence. In addition, under the bill resident letting agents will no longer be limited to managing only one building complex. These matters are not indicative, for occupational licensing purposes, of whether a person is appropriate to provide letting services to a building complex. Of course, resident managers will still be required to comply with their individual management rights contracts and agreements with relevant bodies corporate in relation to those matters.

The government has worked closely with industry and peak stakeholder bodies to identify and implement new red-tape-reduction measures. I would like to personally thank each and every person and organisation that made a submission to the red-tape-reduction review earlier this year. This bill, and the other agents bills, are a reflection of the government's commitment to deliver a modernised approach to the regulation of the property sector that reduces unnecessary regulation and red tape. I commend this bill to the House.

First Reading

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (7.53 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Madam SPEAKER: In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.