




Speech By
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MEMBER FOR MORAYFIELD

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RETAIL SHOP LEASES AMENDMENT BILL

 **Mr RYAN** (Morayfield—ALP) (5.19 pm): I rise to support the Retail Shop Leases Amendment Bill 2015. With Small Business Week starting next week on Monday, 16 May 2016, I acknowledge all the small businesses in the Morayfield state electorate and the broader Caboolture region for the contribution that they make to our community by providing job opportunities for local people and also for taking risks, investing in our economy and producing economic activity. I acknowledge all small businesses and, in particular, those small businesses that are based in shopping centres and will enjoy the benefits of the Retail Shop Leases Amendment Bill 2015 if passed by the House. This bill gives effect to outcomes from the review that was started in 2011 under the previous Labor government and continued under the former LNP government. An options paper was released in May 2013 and a reference group was established in June 2013. That has culminated in the bill before the House today.

In a former life, as a graduate lawyer with Allens Arthur Robinson, I worked on retail shop leases. I acted for lessors and lessees. I understand the importance that both those parties place on this legislation and the importance that they place on the statutory framework that this legislation will enshrine in Queensland. Some people might think that this legislation is boring or does not have much relevance to them. However, for the many people who are involved in small business and the many people who are involved in retail shops, this is their entire lives. The legislation that we have before us provides safeguards for lessors. It ensures that there is a relatively level playing field when it comes to negotiating leases and that there is a strong framework. This is very good Labor legislation because it makes sure that, wherever possible, we provide a level playing field so that there is less imbalance in negotiating power and minimum standards for everyone to play by.

We have heard a lot of contributions on the bill and I do not want to repeat what others have said. However, I do want to point out what I believe are good improvements enshrined in the bill, particularly in relation to enhanced lessee protections. I am very pleased to see that lessee protections will be enhanced by facilitating appropriate disclosures to franchisees and, importantly, requiring a lessor's annual estimate and audited statement of outgoings to provide a breakdown of centre management fees, which is very important for transparency. It is very important that a lessee can have confidence that their contributions to the lessor are being used to further the centre's business and enhance their operations as an individual lessee.

When I was a graduate lawyer practising in this area, often problems arose relating to releases for the assignor lessee not including the assignor lessee's guarantors. What happened and probably still happens, at least until this amendment is passed by the House, is that when an existing tenant leaves a shopping centre and transfers the lease to a new tenant, usually the original tenant's guarantors are still on the hook. Those guarantors are usually the company directors of the tenant company exiting the lease. They have no control whatsoever, other than by some contractual right that they may have established with the incoming tenant. Therefore, people who have no control over what the new tenant does in the shopping centre are still on the hook if that tenant gets into trouble under

the lease. Changing that will be very important, as it will mean that innocent people acting in good faith can be released, so they are off the hook when there is an assignment of the lease. It also seemed to happen quite often that lessors required the lessee to pay mortgage consent costs. That is a cost of the lessor and should always be covered by the lessor, not the lessee. The bill contains a number of additional benefits that assist lessors.

This legislation is about making sure that we get the balance right and clarifying the nature of leases that are caught by this act, which is important. It is good to see the exclusion of all leases with a floor area greater than 1,000 square metres and the non-retail precinct exclusion brought in under this amendment bill. Ultimately, if you are leasing an area greater than 1,000 square metres, you are a sophisticated lessor and the protections that are contained in this bill should not extend to you as if you were a small business lessee. The bill contains some good protections. It will enhance lessee protections and provide some additional benefits for lessors that will reduce red tape, create efficiencies and stimulate economic activity in the shopping centre space. It is good legislation and I am pleased to support it.