




Speech By
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RETAIL SHOP LEASES AMENDMENT BILL

 **Mr MINNIKIN** (Chatsworth—LNP) (4.08 pm): I rise in the House to contribute to the Retail Shop Leases Amendment Bill 2015 debate. I am pleased to be able to speak to this bill. However, I must admit that I appear to be suffering from *deja vu* as I am sure I have seen this legislation before. Indeed, it reminds me greatly of a bill introduced by the former LNP government on 24 November 2014. I note that this legislation aims to amend the Retail Shop Leases Act 1994 to deliver greater certainty and clarification for shop lessees and lessors.

As outlined in the Register of Members' Interests, one of my companies is involved in retail shopping centre management. The centres that we manage comprise small mum-and-dad type retailers through to the major supermarket chains and discount department stores. The array of goods and services is vast—from being able to purchase a good, old lime milkshake through to refurbishing a complete kitchen.

As a former shopping centre manager, I have seen firsthand the complexities of the current legislation that both lessees and lessors must attempt to decipher. There was a need to incorporate these legislative amendments and changes to the industry. The original act as it stands provides a framework to address imbalances in the negotiating power and access to information between major shopping centre landlords and small retail tenants. As a vehement supporter of small business, this is an important statutory review of the Retail Shop Leases Act 1994 with several very sensible amendments.

A review of this legislation commenced in late 2011 followed by an options paper and the creation of a reference group of key industry stakeholders in 2013. The key objects of the review were to identify opportunities to improve the efficiency and effectiveness of the act, address any remaining or new imbalances in accessing information and negotiating power, and to reduce infamous red-tape and compliance costs for retail lessees and lessors. Furthermore, the reference group was tasked with identifying areas of stakeholder consensus. It was made up of a cross-section of the industry including representatives from the National Retail Association, the Australian Property Institute, of which I am a member, and the Shopping Centre Council of Australia.

The bill before the House today delivers a comprehensive modernisation to aged legislation. The current legislation does not address the concerns of a modern retail market. It fails to adequately deliver appropriate safeguards to ensure certainty for both the lessee—the tenant—and the lessor—the owner. Small businesses and larger enterprises, for that matter, require certainty in making informed market decisions. With a lack of adequate disclosure and inconsistencies arising from standard tenancy agreements, many small businesses are faced with future uncertainty.

I have been privy to many tenancy agreements and negotiations in my time as a shopping centre manager and developer, and I have worked hard to ensure that all contracts are beneficial between the lessor and lessee. However, as the saying goes, the tradesperson is only as good as their tools. As a result, I welcome the amendments to be made by the Retail Shop Leases Amendment Bill before the House today, as they aim to improve negotiation processes and differences in market bargaining power for both parties in a tenancy agreement.

I am confident from my nearly two decades of industry knowledge and involvement that this bill will reduce red tape and deliver improved flexibility to allow both parties involved to proceed with a lease without unnecessary delays. In the real business world, delays in lease negotiations, preparation and execution can have massive deleterious financial and legal consequences. As I alluded to earlier, small business lessees will have greater certainty and confidence to be able to invest in the future of their business through delivering a number of vital reforms.

The bill aims to ensure that current tenants will be made aware of any changes that may impact on their ongoing business such as changes to future tenancies. They will have greater certainty ensuring appropriate time frames are in place to assist in negotiating the all-important terms of their lease. The bill will also ensure that a lessee is only liable to refurbish the leased shop during the lease term where the lease gives sufficient details of the nature, extent and timing of the required refurbishment. This is indeed a big issue. This capital outlay to refurbish and stay competitive is often a very costly exercise for most lessees. While this bill will deliver a number of safeguards to the lessee, it is important to note while debating this bill today that lessors will also benefit from proposed changes. There always needs to be a delicate balance between the lessor and lessee.

I now turn to the issue of sophisticated transactions, which other members have mentioned in the debate today—this being leases with a floor area greater than 1,000 square metres, which will be excluded from the act on the basis that these tenants are predominantly sophisticated entities that do not require the same level of protection provided by the act. This is an eminently sensible change.

The bill also introduces certain exemptions from compensation and from trading losses in the case of an emergency situation whereby the lessor's action is a reasonable response to the emergency. This is a very important change which adds sensible balance to the legislation. The Retail Shop Leases Amendment Bill will also see a number of vital red-tape reductions. Some of these measure are excluding areas for the purposes of apportioning lessors' outgoings, clarifying the accounting and reporting obligations by lessors to lessees for promotion and advertising as well as sinking fund contributions and simplifying a number of procedural requirements. Again, these are all sensible and important changes to the legislation.

I welcome the bill before the House today, as my great seat of Chatsworth is rich with local businesses both small and large. Just across from my electorate office is the popular Westfield Carindale Shopping Centre. This legislation will deliver great improvements to the protection of lessees whilst still delivering safeguards to lessors. In addition, throughout my electorate there are a number of great small businesses such as Rockaway Records and Zorba Hair—of which I am not an all-too-frequent customer, I must confess—which will be able to plan more easily for the future as a result of this important legislation.

The world of retail is not for the faint of heart. I echo the sentiments that have been shared earlier by previous speakers. It involves many long hours and is an extremely competitive business environment, not dissimilar, some might say, to what goes on in this very august chamber. Business needs certainty and sensible rules and regulations within which to fairly compete.

I salute all small businesses throughout the state that operate under the Retail Shop Leases Act, because these are the entrepreneurs and everyday mums and dads who often put their financial necks on the line. Many get up at the crack of dawn and do not finish until late at night. As I have repeatedly stated, and it has been expressed by other speakers, small business is the real lifeblood of this great state. I am pleased to support the Retail Shop Leases Amendment Bill 2015.