

DEPARTMENT OF JUSTICE

SPEECH NOTES

The Residential Tenancy Amendment Bill 2009

Mr Speaker, I move that the *Residential Tenancy Amendment Bill 2009* be read a second time.

The *Residential Tenancy Amendment Act 2005*, which establishes a Rental Deposit Authority will commence by proclamation on 1 July 2009.

The new Authority will collect and manage rental bonds on behalf of property owners and tenants.

Whilst completing a systems analysis for the establishment of the new Authority, an anomaly was found in the 2005 Amendment Act which would significantly impact on the operations of the Authority.

Clause 2 of Schedule 3 of the Residential Tenancy Amendment Act currently provides that where a property owner holds a security deposit for a residential tenancy agreement entered into before the Act comes into force, the owner must deposit that security deposit with the Authority within 6 months of the Act commencing.

This provision would require the establishment of separate processes to collect existing bonds from property owners. As many of these bonds are for tenancies that have been in existence for some time, they would be held for only a short period before being claimed. This would mean that there would be a net cost to the Authority of collecting these bonds.

The total cost of establishing a separate system for this one off collection of existing bonds would add significantly to the cost of establishing the system in the first 12 months of operation, between \$250,000 and \$500,000.

In addition to the financial burden associated with this Clause, it has also become apparent that Clause 2 would be difficult to enforce as there is no way of identifying those residential tenancy agreements that are in force prior to commencement.

To identify property owners required to make a deposit, and take enforcement action would be time consuming and costly. Further, there may well be a number of owners who would inadvertently breach the Act due to ignorance of the change in the law and its application to existing rental deposits.

For these reasons, this Amendment Bill amends the *Residential Tenancy Amendment Act 2005*, so that only new bonds are required to be paid to the Authority.

Only bonds payable pursuant to residential tenancy agreements entered into on or after 1 July 2009 will be required to be paid to the Authority.

This Amendment Bill also ensures that the existing powers of the Residential Tenancy Commissioner to determine disputes and the right of appeal from such a determination under the *Residential Tenancy Act 1997* continue to apply to pre-existing residential tenancy agreements.

Mr Speaker, I commend the Bill to the House.