

## CLAUSE NOTES

### ***Residential Tenancy Amendment (Safety Modifications) Bill 2025***

#### **Clause 1      Short title**

The short title will be the *Residential Tenancy Amendment (Safety Modifications) Act 2025*.

#### **Clause 2      Commencement**

The Amendment Act will commence on proclamation. The proclamation may identify different commencement days for different provisions.

#### **Clause 3      Principal Act**

References in the Bill to “Principal Act” are references to the *Residential Tenancy Act 1997*.

#### **Clause 4      Section 3 amended (Interpretation)**

This clause provides a definitions for ‘approved form’, ‘safety modification’ and ‘Tribunal’. These terms are relevant to other provisions in the Bill.

*Approved form* means approved by the Commissioner, which is the Residential Tenancy Commissioner. *Safety modification* in relation to premises, means the affixing of an item of furniture to those premises for the purposes of avoiding the risk of injury or death to a person from the movement of that furniture. *Tribunal* means the Tasmanian Civil and Administrative Tribunal.

#### **Clause 5      Section 54 amended (Alterations, additions and fixtures)**

This clause provides that section 54 does not apply to a modification to which new section 54A applies. Section 54 provides that consent of the owner is required to affix any fixture or make alterations to the premises, amongst other requirements.

#### **Clause 6      Sections 54A, 54B and 54C inserted**

This clause inserts new sections 54A, 54B and 54C in Part 5 of the Principal Act.

##### **54A. Safety modification permitted**

New subsection 54A(1) provides a definition of ‘permanent damage’. It provides that *permanent damage* includes damage that cannot be

remedied, damage that affects a premises that has historical cultural heritage significant within the meaning of the *Historic Cultural Heritage Act 1995*; and a type of damage prescribed in regulations.

New subsection (2) provides that a tenant may make a safety modification to the premises without the consent of the owner, however this is subject to subsection (3), and provided that the safety modification does not contravene any other law in respect of modifications to premises.

New subsection (3) provides that despite the right provided in subsection (2), consent of the owner is required if a safety modification is likely to cause permanent damage to a premises. The consent is to be requested before undertaking the safety modification.

New subsection (4) provides that an owner who receives a request for consent to make a safety modification must respond by granting or refusing the request within 14 days.

Subsection (5) provides that consent must not be unreasonably refused, and if the request has not been granted or refused within the 14 days, consent is taken to have been granted immediately after the expiry of that period.

New subsection (6) provides that a tenant may remove any safety modification that the tenant has made to the premises unless the removal is likely to cause permanent damage to the premises. The existing provisions in the Act will continue to apply requiring tenants to return the premises at the end of the lease to the condition that it was the start of the tenancy, apart from reasonable wear and tear.

New subsection (7) provides for action where damage is caused to the premises by removing any safety modifications. If this occurs, the tenant is to notify the owner as soon as practicable and the owner is to determine whether the tenant is to repair the damage or compensate the owner for any reasonable expenses incurred by the owner in repairing the damage.

#### **54B. Order of Commissioner in respect of safety modification**

New section 54B provides the steps that can be taken if an owner of a premises refuses consent to a requested safety modification, and the tenant believes the refusal is unreasonable. In those circumstances, the tenant may apply to the Residential Tenancy Commissioner for an order to authorise the making of the safety modification.

New subsection (2) provides that an application must be in the approved form, that is a form approved by the Residential Tenancy Commissioner, and specify the safety modification requested.

New subsection (3) provides that the Commissioner is to notify the owner of the premises of the application as soon as practicable after receiving the application.

New subsection (4) provides that the Commissioner may make a 'safety modification order'. A *safety modification* order authorises the making of a safety modification. For an order to be made the Commissioner has to be satisfied that a refusal to consent is unreasonable in the circumstances. The Commissioner may refuse to make such an order.

New subsection (5) provides notification requirements on the Commissioner. Within three days of making or refusing to make a safety modification order, the Commissioner is to notify the tenant and the owner of the Commissioner's decision, provide reasons for the decision, notify the right to appeal that decision, and if the order is made, that the order takes effect after 14 days.

#### **54C. Appeal to Tribunal in respect of safety modification order**

New subsection 54C(1) provides that the Tasmanian Civil and Administrative Review Tribunal has jurisdiction to review the Commissioner's decision in respect of a safety modification order, by application of the owner or tenant.

New subsection (2) provides that an application needs to be made within the 14 day period starting from when the Commissioner provided notice of the decision.

New subsection (3) provides that the Tribunal review is within the review jurisdiction of the Tribunal and that the relevant stream is the Civil and Consumer stream of the General Division of the Tribunal.

## **Clause 7**

### **Repeal of Act**

The *Residential Tenancy Amendment (Safety Modifications) Act 2024* will be automatically repealed after the first anniversary of this Act commencing.