



New South Wales

Residential Tenancies Amendment (Mortgagee Repossessions) Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill is to amend the *Residential Tenancies Act 1987*:

- (a) to require a mortgagee, once they become entitled to possession of rented premises to the exclusion of the tenant, to give the tenant at least 30 days' notice to vacate the premises before the mortgagee takes possession, and
- (b) to provide that the former tenant who is given notice to vacate may withhold or recoup any rent for the period in which they are holding over after termination of the residential tenancy agreement.

The Bill also amends the *Landlord and Tenant (Rental Bonds) Act 1977* to make it clear that a mortgagee may authorise the Rental Bond Board to release the rental bond to the former tenant once the mortgagee becomes entitled to possession of the rented premises.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

* Amended in committee—see table at end of volume.

Schedule 1 Amendment of Residential Tenancies Act 1987 No 26

A residential tenancy agreement terminates if a mortgagee in respect of the rented premises becomes entitled to possession of the premises to the exclusion of the tenant. **Schedule 1 [1]** provides that in these cases the mortgagee will be required to give the former tenant who is holding over under the terminated agreement a notice to vacate before the mortgagee can take possession. The notice must specify the date (being not less than 30 days after the notice is given) by which the former tenant is to vacate the premises. The former tenant will be able to withhold or recoup any rent for the period in which the tenant is holding over after termination of the agreement.

Schedule 1 [2] makes it clear that the right to take possession of rented premises in accordance with a court order is, in the case where the residential tenancy agreement is terminated because a mortgagee has become entitled to possession of the property, subject to the new requirement to give the former tenant at least 30 days' notice to vacate.

Schedule 1 [3] provides that former tenants may be served with notices to vacate in the same way as other documents or notices are given to tenants.

Schedule 1 [4] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 2 Amendment of Landlord and Tenant (Rental Bonds) Act 1977 No 44

Schedule 2 makes the amendment to the *Landlord and Tenant (Rental Bonds) Act 1977* described in the above Overview.