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STRATA SCHEMES MANAGEMENT AMENDMENT (CHILD WINDOW SAFETY DEVICES) BILL 2013

Second Reading

The Hon. MATTHEW MASON-COX (Parliamentary Secretary), on behalf of the Hon. John Ajaka [5.19 p.m.]: I move:

That this bill be now read a second time.

This bill will make it mandatory for owners corporations of residential strata schemes to install safety devices on windows that present a risk to young children. The measures in this bill will help to improve child safety in the home and reduce injuries and deaths associated with children falling from windows. This bill is the result of a collective effort and I commend the Minister for Health, the Hon. Jillian Skinner, the Minister for Planning and Infrastructure, the Hon Brad Hazzard, and the Minister for Fair Trading, the Hon Anthony Roberts—Robo The Good—for their ongoing commitment to this important safety initiative. I also take this opportunity to thank the New South Wales President of the Australian Medical Association, Associate Professor Brian Owler, for his support of these new laws.

On 13 March this year the Minister for Fair Trading announced window safety measures for strata schemes as part of the Government's response to the Children's Hospital at Westmead, Working Party for the Prevention of Children Falling from Residential Buildings. The Children's Hospital produced a report following a spike in child hospital admissions due to falls from buildings. The report recommended a range of measures aimed at reducing the risks to children. In its response to the report, the Government committed to a range of measures, including the listing of window safety devices in the prescribed condition report that forms part of a rental tenancy agreement. This report must be filled in when a tenant moves into a rental property and will help raise awareness of window safety for new tenants with young children. Adding window safety devices to the prescribed condition report requires only minor changes to residential tenancy regulations and is not part of this bill. NSW Fair Trading is in the process of finalising the amendment to the regulations, and that will be tabled in Parliament in the coming months.

There will also be a community education and awareness campaign about child safety. I know all members will applaud that initiative. The education and awareness campaign will build on the existing New South Wales child safety campaign that commenced in 2009. The campaign involves key government agencies, relevant industry stakeholders and non-government organisations. There is no doubt that the report of the Children's Hospital made a strong case for improving window safety. The report indicated that child falls from buildings most frequently involve young children aged between two and four years of age. While toddlers can be very curious and adventurous, they are still developing their ability to judge potential dangers or risks. It is for this reason that a window safety device can be the last line of defence that could save a child's life. The extent of the problem was illustrated by recent data provided by NSW Health indicating that during 2011-12, 39 children aged nine or younger were hospitalised in New South Wales due to falls from windows. The majority of those incidents involved children under four years of age. In many of those cases the children sustained serious injuries.

We should also bear in mind that not all of the children who fall from windows make a full recovery from their injuries, particularly in the case of head or spinal injuries. The severity of injuries that result from falls can mean a person will need lifelong medical treatment and care. We also need to consider that the number of families with young children living in high-rise residential strata buildings in New South Wales has grown steadily over recent decades. It is estimated that approximately 25 per cent of the population of New South Wales live in strata title buildings and this proportion is growing. By 2030, it is estimated that more than half of the State's population will live in a strata scheme. They are indeed sobering statistics. This gives cause for concern that an ever-increasing number of children will be exposed to the risk of severe injury due to falling from a great height. I am confident that we are introducing an effective combination of regulation and education to address this issue. Our approach is modelled on similar measures employed overseas, which have dramatically reduced the incidence of injuries and deaths among young children.

Several American cities have used community education campaigns combined with regulatory measures to deliver significant and positive child safety outcomes. For example, in New York city, where there are more high-rise residential buildings than there are in Sydney, a program that combines community education and

mandatory window safety guards led to a 96 per cent reduction in such admissions to local hospitals—I emphasise, a 96 per cent reduction. While owners corporations are encouraged to take action on this issue as soon as possible—and I am sure that many of them will—they will have until March 2018 to comply with the window safety standards. While it is understandable that many strata residents with young children may want window safety devices installed immediately, it is not realistic to expect that every strata scheme will be able to comply with the new requirements right away. Owners corporations will need to meet and discuss their approach, identify which windows are affected, get quotes, hire tradespeople, and schedule the work, which of course will take time. Concerned parents are encouraged to work with their owners corporation to start the process as soon as possible.

If window safety devices have not been installed by March 2018, concerned residents will be able to apply to the Consumer, Trader and Tenancy Tribunal for orders that the owners corporation take action. Nonetheless, as I have just said, I would encourage strata schemes to commence this process as soon as possible. Individual strata owners will also have the right to install complying window safety devices themselves, provided that they notify the owners corporation that this has been done. This right will override any strata laws and any of the scheme's by-laws that would otherwise prevent them from doing so. However, lot owners will need to ensure that the devices are installed competently and are in keeping with the building's appearance. It is the case that they will be liable for any damage caused to the common property during the installation.

The criteria for identifying the windows that present a safety risk to young children will be set out in the regulations. They will capture openable windows when the lowest edge is less than 1.7 metres above the internal floor level and when the drop from the internal floor level to the external surface beneath the window is two metres or more. These criteria are based on the provisions in the Building Code of Australia. The regulations will also include performance-based standards for window safety devices. A window safety device must allow the window to be locked with a maximum opening of 125 millimetres and it must be able to resist 250 newtons, which means it must be robust enough to resist a reasonable amount of force. I make it clear that at this stage windows will not have to be locked permanently in one position. If there are no children in the home, then of course the windows might be left wide open. If the window safety device can be removed, overridden or unlocked, it must have a child-resistant release mechanism.

Given the variety of window designs that are in use, we will not be limiting people's choices by prescribing a list of acceptable safety devices in the regulations. Owners corporations and lot owners will be free to choose the most suitable device for their windows. This could be a strong screen, a window lock or something else—as long as it performs as required. Window safety devices are readily available from hardware stores and, depending on the type, they are inexpensive and easy to install. While there is some cost to the strata community associated with the new provisions, the Government is firmly of the view that the costs are far outweighed by the benefits to families and the community.

On the day the Minister for Fair Trading announced the Government's response to the Children's Hospital report, the Minister also released the Children and Window Safety Consultation Paper, which explained the proposed measures for improving window safety and sought feedback on how the measures should be implemented. I am informed that the responses from key stakeholders indicated clear support for measures to improve child safety in residential buildings. On behalf of the Government, I thank the organisations and individuals who made an effort and provided feedback to the Government on this issue. We are confident that the measures in this bill represent a major step forward in preventing child falls around the home. Accordingly, I strongly commend the bill to the House.