



Retail Leases Amendment Bill.

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [6.32 p.m.]: I move:

That this bill be now read a second time.

The Retail Leases Amendment Bill amends the Retail Leases Act 1994. The Retail Leases Act 1994 established a legislative framework for regulating the relationship between landlords and small- to medium-sized retailers. It introduced minimum standards for the leasing of retail space and created a mechanism for dispute resolution. The legislation's track record speaks for itself. Since its establishment in 1994 the Retail Tenancy Unit has handled over 37,500 inquiries from landlords and retail tenants, resulting in over 3,800 informal mediations and over 1,600 formal mediations. Ninety per cent of these mediations have successfully resolved the matters in dispute. It is also noted that since the introduction of the Act fewer than 0.004 per cent of the retail leases in New South Wales are formally mediated through the New South Wales Retail Tenancy Unit in any one year.

The amendments implement the recommendations of a national competition policy review of the Act. The review report found that the Retail Leases Act 1994 does not have the effect of restricting competition and recommends retention of the legislative scheme on net public benefit grounds. While the Act does impose some conditions on retail leasing, the associated compliance costs are considered to be minimal and are offset by the associated benefits. The legislation was found to provide a net public benefit. However, the report did recommend changes, first, to the recovery of lease preparation expenses by landlords from tenants and, second, to six-monthly statements of expenditure on outgoings.

The amendments will prohibit landlords from recovering the costs of preparing and entering into a lease from tenants, except the costs associated with specific requests from a tenant. This change will make the negotiating process more transparent and allow the tenant to see more clearly the costs of entering into the lease. Small business tenants will no longer be surprised by large legal fees and other bills after they sign a lease. The bill also removes the requirement on landlords to provide an outgoings expenditure report every six months. This reporting requirement was found to be costly to landlords and to provide little benefit to tenants. The requirement to provide written expenditure reports on an annual basis remains. These reforms will assist in creating a more even-handed, better-informed and more transparent environment for the negotiation of retail leases for small business. I commend the bill to the House.

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