

Retirement Villages Bill

EXPLANATORY MEMORANDUM

Clause 1 states the purpose of the Act.

Clause 2 states that the Act comes into operation when proclaimed.

Clause 3 provides definitions of important terms in the Act including “Manager”, “Residence Contract”, “Residence Right”, “Retired Person” and “Retirement Village”.

Clause 4 states that the Act applies to retirement villages whether in existence before or after commencement of the Act.

Clause 5 lists those organizations and establishments to which the Act does not apply.

Clause 6 enables certain organizations and villages to apply for conditional exemption from all or any of the provisions of the Act and sets out the procedure for seeking an exemption.

Clause 7 prohibits contracting out of the provisions of the Act.

Clause 8 prohibits the creation of residence rights unless a retirement village notice has been lodged under clause 9.

Clause 9 requires an owner of retirement village land to lodge a retirement village notice containing the information described.

Clause 10 enables the retirement village notice to have effect in relation to General Law Land.

Clause 11 requires the Registrar of Titles to enter a memorandum of the retirement village notice on the relevant certificate of title.

Clause 12 excludes certain land from the operation of Part 3 of the Act.

Clause 13 requires all owners of retirement village land to be parties to contracts which give rise to a residence right.

Clause 14 states that the residence right created by the contract entered into under clause 13 runs with retirement village land and binds the persons described who subsequently hold interests in that land.

Clause 15 states that the *Residential Tenancies Act 1980* does not apply to tenancy agreements which give rise to a residence right.

Clause 16 sets out the circumstances and manner in which a resident of a retirement village may be required to leave the village.

Clause 17 makes it an offence for certain persons to be involved in the promotion and sale of residence rights and in the management of retirement villages.

Clause 18 describes how the *Fair Trading Act 1985* applies to residence contracts and residence rights.

Clause 19 requires an owner to disclose certain documents to a prospective resident 21 days before the prospective resident enters into a residence contract.

Clause 20 creates offences in relation to certain information given by an owner or manager to a resident.

Clause 21 requires the owner or manager of a retirement village to make certain documents available to residents for inspection.

Clause 22 provides a civil remedy where there has been a contravention of clause 19 or 20.

Clause 23 provides that a resident is not entitled to rescind a residence contract for contravention of either clause 19 or 20 where a court of competent jurisdiction is satisfied the contravention was inadvertent.

Clause 24 provides a prospective resident with a three day cooling-off period after signing a residence contract.

Clause 25 requires that any moneys comprising an in-going contribution be held in trust in the manner described pending a resident's entry to a retirement village.

Clause 26 entitles a resident to a refund of the in-going contribution where certain statements are made to the resident before signing a residence contract.

Clause 27 excludes certain land from the operation of Part 5 of the Act.

Clause 28 describes the circumstances in which Part 5 of the Act applies to a retirement village.

Clause 29 describes how a charge over retirement village land to secure refundable in-going contributions is created, the nature of the charge and the manner in which the charge operates.

Clause 30 creates an offence and provides a civil remedy where in the circumstances described a resident cannot recover a refundable in-going contribution and states that persons who subsequently become owners of the land will be subject to any contract to refund such contributions.

Clause 31 describes the circumstances and manner in which the charge created under the Act can be enforced.

Clause 32 describes the circumstances and manner in which the charge may be extinguished.

Clause 33 requires a manager in certain circumstances to convene an annual meeting of residents.

Clause 34 describes the matters which an owner must present to the annual meeting.

Clause 35 describes the manner in which disputes between residents and managers may be resolved.

Clause 36 enables residents to elect a residents committee, sets out aspects of the committee's membership and describes certain of the committee's functions.

Clause 37 describes how by-laws may be created, altered or revoked.

Clause 38 sets out the circumstances in which a resident must pay special levies and increases in maintenance charges.

Clause 39 describes how a retirement village notice can be cancelled.

Clause 40 empowers the Commissioner for Corporate Affairs to take proceedings for offences against the Act.

Clause 41 sets out the liability of directors of a body corporate where that body corporate is guilty of an offence against the Act.

Clause 42 describes how a resident may rescind a residence contract.

Clause 43 empowers the Governor in Council to make regulations.

Schedule 1 contains the retirement village notice.

Schedule 2 contains the disclosure statement.

Schedule 3 contains the check list.

