Leasehold and Freehold Reform Bill

AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Marshalled List]

Amendment No.

After Clause 25

LORD BAILEY OF PADDINGTON

15A★ After Clause 25, insert the following new Clause—

"Leases for new dwellings: default length

(1) Where a lease is a regulated lease, it must be issued with a lease term of at least 990 years.

(2) In this section—

"regulated lease" means a lease which meets the following conditions—

(a) it is a long lease of a single dwelling,

(b) it is granted for a premium,

(c) it is granted on or after the relevant commencement day but not in pursuance of a contract made before that day, and

(d) when it is granted, it is not an excepted lease.

the "relevant commencement day" is 1 January 2025"

Member's explanatory statement

This amendment would ensure that all leases created for new dwellings following 1 January 2025 come with a default length of 990 years, bringing the position of future private sector leases into line with the existing requirements under Home England's new model shared ownership lease.

LORD BAILEY OF PADDINGTON

15B★ After Clause 25, insert the following new Clause —

"Mandatory share of freehold on new blocks of flats

(1) A person may not grant or enter into an agreement to grant a restricted long lease of one or more flats in a qualifying building on or after the day on which this section comes into force, unless the freehold estate in the building is held by a Shared Freehold Company.

(2) In this section—

"appropriate national authority" is—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers;

"effective date" means the day three years after the Act receives Royal Assent, and

"exempted building" means any building in which the freehold estate is held by—

(a) a Commonhold Association, or

(b) a Community Land Trust;

"flat" has the same meaning as in section 101 of the Leasehold Reform, Housing and Urban Development Act 1993;

"long lease" has the same meaning as in sections 76 and 77 of the Commonhold and Leasehold Reform Act 2002;

"qualifying building" is a building which meets the following conditions—

(a) it would constitute premises to which Chapter 1 of the Leasehold Reform, Housing and Urban Development Act 1993 applied if each flat in the building had a qualifying tenant within the meaning specified in section 5 of that Act, and

(b) the first long lease granted over a flat in the building was granted on or after the effective date, and

(c) it is not an exempted building;

a "restricted long lease" is a long lease which does not fall into any of the categories in Schedule 1;

"Shared Freehold Company" means a limited company established for the purpose of holding the freehold of a specific qualifying building, where membership in the company is referable to holding a leasehold estate in the qualifying building.

(3) The appropriate national authority may make regulations for—

(a) the content, form and effect of the articles of association of Shared Freehold Companies,

(b) the exemption of Shared Freehold Companies from the strike-off provisions of section 1000 of the Companies Act 2006,

(c) the automatic acquisition and termination of membership in a Shared Freehold Company by tenants and initial subscribers, and

(d) restrictions on the terms or effect of any agreement, lease or rentcharge to which a qualifying building is subject.

(4) Any regulations made under this section must provide that—

(a) all tenants under long leases of flats in the relevant qualifying building shall be voting members of the Shared Freehold Company, and

(b) no other person shall be a voting member of the Shared Freehold Company.

(5) Regulations under this section are subject to negative resolution procedure."

Member's explanatory statement
This amendment would require that "share of freehold" arrangements be mandatory on future blocks of flats in cases where some of the flats are subject to long leases and where the block would in any case be subject to collective enfranchisement. It provides a three-year grace period for the Secretary of State or (in the case of Wales) the Welsh Ministers to establish a "Shared Freehold Company" scheme in anticipation.

Clause 28

LORD SANDHURST

17A★ Clause 28, page 18, line 17, at end insert—

"(2) In section 5 of LRHUDA 1993 (qualifying tenants), after subsection (6) insert—

"(7) For the purposes of any premises which fall within section 4(1)(b) there is to be no qualifying tenant of any flat in respect of which the tenant is for the time being an overseas company (as defined in section 1044 of the Companies Act 2006).""

Member's explanatory statement
This amendment would exclude leasehold properties owners in mixed-use buildings from participating in collective freehold enfranchisement claims where they are owned by an overseas company. It should be noted that these leaseholders would retain rights to individual lease extensions.

After Clause 50

LORD BAILEY OF PADDINGTON

65A★ After Clause 50, insert the following new Clause—

"Premises to which leasehold right to manage applies

In section 72(1)(a) of the CLRA 2002 at the end insert the words "or of any other building or part of a building which is reasonably capable of being managed independently"."

Member's explanatory statement
This new Clause, which is an amendment to the Commonhold and Leasehold Reform Act 2002, adopts Recommendation 5 of the Law Commission's Right to Manage report to permit leaseholders in mixed-use property with shared services or underground car park to exercise the Right to Manage for their element of the building.

LORD BAILEY OF PADDINGTON

65B★ After Clause 50, insert the following new Clause—

"Proportion of qualifying tenants required for a notice of claim to acquire right to manage

In section 79(5) of the CLRA 2002 omit "one-half" and insert "35%"."

Member's explanatory statement
This new Clause would reduce the proportion of qualifying tenants who must be members of a proposed Right to Manage company for a claim to be made from one-half to 35%.

Clause 56

LORD BAILEY OF PADDINGTON

76A★ Clause 56, page 67, line 38, leave out subsection (2) and insert—

"(2) In section 26(1) (Exception: tenants of certain public authorities), omit the words "but section 25 (offence of failure to comply) does not"."

Member's explanatory statement
This amendment seeks to preserve the ability to crowdfund private prosecutions of rogue landlords, which should help get section 24 orders for abused blocks. It also extends the protection of the criminal sanction to council leaseholders.

After Clause 56

LORD BAILEY OF PADDINGTON

78A★ After Clause 56, insert the following new Clause—

"LTA 1985: regime for service charge disputes

(1) The Landlord and Tenant Act 1985 is amended in accordance with subsections (2) to (3).

(2) In section 27A(4)(a), after "tenant" insert the words "or landlord".

(3) After section 27A insert the following—

"27B Requirement to join all interested tenants unless they opt-out

(1) On receipt of any application under section 27A from any tenant, the appropriate tribunal shall direct the landlord to give notice of the application to all tenants under the same landlord.

(2) The appropriate tribunal must direct that all tenants will be deemed joined to application unless they write to the appropriate tribunal and opt-out of the proceedings before the final hearing.

27C Landlord's duty to account to all tenants following determinations in favour of any tenant under section 27A

(1) A landlord owes a duty to account to all tenants for any costs found to be unreasonable following a determination by the appropriate tribunal in favour of any tenant under section 27A.

(2) A landlord must account to all tenants by the end of the period of two months beginning with the date of the appropriate tribunal's determination under section 27A.

(3) The account must include any interest awarded under section 27D.

(4) An appeal does not suspend the landlord's duty to account unless—

(a) The appellate court of tribunal orders otherwise, and

(b) As a condition of any order the landlord pays the sum due into escrow on terms approved by the appellate court or tribunal, or else into the Court Funds Office.

27D Power to award interest on determinations under section 27A

(1) On application by the tenant, the appropriate tribunal shall have the power to award interest on any determination in favour of the tenant under section 27A.

(2) Provided the landlord accounts to the tenant in accordance with section 27C, interest ordered under this section shall accrue daily on the simple basis at a rate that is the higher of—

(a) any interest rate for late payments specified in the lease, or

(b) the rate specified in section 17 of the Judgments Act 1838 at the date of the appropriate tribunal's determination.

(3) If the landlord does not comply with its duty to account to the tenant in accordance with section 27C then beginning on the day after the period specified in section 27C(2)—

(a) the applicable rate of interest shall increase to 15% per annum, or such higher amount as the relevant authority shall prescribe,

(b) interest shall apply to the aggregate of the sum outstanding and interest calculated in accordance with subsection (2), and

(c) interest shall accrue daily on a compound basis until the date of payment by the landlord.

27E Avoidance of sections 27B to 27D

Any agreement contrary to sections 27B to 27D is void, whether made before or after the coming into force of this section.""

Member's explanatory statement

This amendment would strengthen the regime for service charge disputes by allowing tenants to claim interest, imposing a 2 month limit on repayments from landlords and requiring landlords to account to all tenants for costs found to be unreasonable.

BARONESS JONES OF MOULSECOOMB

78B★ After Clause 56, insert the following new Clause—

"Review of municipalisation of public assets funded by leaseholders

(1) Within six months of the passing of this Act, the Secretary of State must publish a report on the municipalisation of public assets funded by leaseholders through ground rent and/or service charge payments.

(2) In preparing the report in subsection (1), the Secretary of State must consult representatives from—

(a) local government,

(b) relevant leaseholders,

(c) relevant freeholders, and

(d) anyone else that the Secretary of State considers relevant.

(3) The report must include the following issues—

(a) the prevalence of public assets funded by leaseholders through ground rent and/or service charge payments, such as green space, play equipment, roads and pavements;

(b) the costs and benefits to leaseholders and other users of these assets;

(c) Whether such assets ought to be taken into some form of public ownership, control, and/or funding."

Clause 60

LORD MOYLAN

81A★ Clause 60, page 76, line 36, at end insert—

"(1A) Subsection (1) does not apply to non-profit entities which have the right to enforce payment of a service charge. The following (non-exhaustive) list provides examples of the types of entities in question—

(a) Residential Management Companies;

(b) Right to Manage Companies constituted under the Commonhold and Leasehold Reform Act 2002."

Member's explanatory statement
This would allow non-profit resident-run lease operators to continue to recoup legal costs through a service charge.

After Clause 116

LORD BAILEY OF PADDINGTON

105A★ After Clause 116, insert the following new Clause—

"Report on shared ownership, 999 year leases and adoption of commonhold

Within a period of six months beginning on the day this Act is passed, the Secretary of State must lay a report before both Houses of Parliament containing—

(a) Details of their proposals to ensure a fairer deal for shared ownership leaseholders in matters including, but not limited to—

(i) Lease extensions, so as to ensure shared owners enjoy similar rights to other tenants under this Act;

(ii) Terms of leases, in particular means to ensure shared owners have a right to extend their lease to 999 years;

(iii) Service charge liabilities being pro-rated according to the shared owner's proportion of the equity;

(b) Details of their proposals to ensure that all new flats come with either a share of freehold and / or a minimum lease term of 999 years;

(c) Details of their proposals for the widespread adoption of commonhold for all new flats by 2030."

Member's explanatory statement
This amendment requires the Secretary of State to report on ensuring shared owners enjoy the same benefits as other leaseholders and that he makes proposals for measures to encourage 999 year leases as standard and for the widespread adoption of commonhold.

LORD BAILEY OF PADDINGTON

105B★ After Clause 116, insert the following new Clause—

"Meaning of "accountable person" for the purposes of the Building Safety Act 2022

(1) Section 72 of the Building Safety Act 2022 is amended in accordance with subsections (2) and (3).

(2) After subsection (2)(b), insert—

"(c) all repairing obligations relating to the relevant common parts which would otherwise be obligations of the estate owner are functions of a manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building.".

(3) In subsection (6), in the definition of "relevant repairing obligation", after "enactment", insert "or by virtue of an order appointing a manager made under section 24 of the Landlord and Tenant Act 1987".

(4) Section 24 of the Landlord and Tenant Act 1987 is amended in accordance with subsection (5).

(5) Omit subsection (2E)."

Member's explanatory statement
This new Clause would provide for a manager appointed under section 24 of the Landlord and Tenant Act 1987 to be the "accountable person" for a higher-risk building.

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19 April 2024