



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

Main Committee

**PERSONAL PROPERTY SECURITIES
(CORPORATIONS AND OTHER
AMENDMENTS) BILL 2011**

SPEECH

Monday, 21 March 2011

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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Questioner
Speaker Keenan, Michael, MP

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Mr KEENAN (Stirling) (6.07 pm)—I rise to talk on the Personal Property Securities (Corporations and Other Amendments) Bill 2011. As defined on the Attorney-General's website, personal property is any form of property other than land or buildings and fixtures which form part of that land. It can include tangibles such as cars, boats, machinery and crops as well as intangibles such as shares, intellectual property and contract rights. Personal property securities involve an arrangement where an individual or business offers personal property, which includes all property except for land, in order to secure a financial loan provided by a financial lending institution such as a bank.

As the system currently stands, Australia has different laws and registers in each state and territory. The personal property securities reform brings together the different Commonwealth, state and territory laws and registers under one national system. The bill makes some minor and technical amendments to the personal property securities regime, which was introduced with coalition support in 2009. This regime comes into effect this year. The regime rationalises the current Commonwealth state and territory laws on securities and personal property to create one national set of rules and a single national online register. It establishes one comprehensive law with clear rules.

The personal property securities legislation arises from an Australian law reform reference in 1990. The matter was pursued through COAG, which in 2007 endorsed the model of a national system. It should be noted that the former Attorney-General, the member for Berowra, gave the issue particular priority. In October 2008 COAG signed an intergovernmental agreement to effect the proposed legislation as part of the seamless national economy agreement between the Commonwealth, states and territories.

The amendments proposed by this bill clarify that the regime does not affect a secured party's capacity to appoint or veto the appointment of a company administrator under a transitional security agreement; confirm that the rights and liabilities of receivers and administrators in respect of pre-appointment transactions are unchanged; ensure access to the third party data for consumer protection purposes; and prevent access to the registry for the purpose of sale of the data. There are also some technical amendments in respect of powers of the registrar to deal with accession to the regime by states that have not yet adopted the relevant version of the Personal Property Securities Scheme, as amended in 2010 and by this bill.

As noted in the bill's explanatory memorandum, the bill will make a number of amendments to provide exemptions to the rules on taking personal property, free of security interests, for temporarily perfected transitional security interests and transitional security interests that were not previously registered by serial number; ensure that the definition of security interest is consistent with the New Zealand legislation and remove any potential for confusion; clarify that CHESS securities are intermediated securities and the means by which CHESS securities can be subject to control; ensure access to third-party data through the register, as an important consumer protection measure; impose conditions on accessing and using data on the register, to ensure that parties cannot sell this data and undermine the Commonwealth's ability to recover costs associated with the implementation and ongoing administration of the PPS system; enable the registrar to investigate breaches of the rules authorising searches of the register and registration of security interests on the register; and clarify the provisions on security interests in authorised deposit-taking institutions and the provisions on control of inventory and accounts.

In conclusion, these amendments were wisely recommended by the Senate Legal and Constitutional Affairs Legislation Committee report on the 2010 amendments, and the coalition is happy to support the proposed amendments in this bill. I therefore commend the bill to the House.