

More doubts emerge on costs of SA Small Business Commissioner Bill 2011

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The Franchise Council of Australia (FCA) believes the 2011 Annual Report of the Victorian Small Business Commissioner reinforces concerns about the likely cost of the South Australian Small Business Commissioner Bill introduced by Small Business Minister Tom Koutsantonis.

In figures published by the Victorian Small Business Commissioner (VSBC) disputes between landlords and tenants dominated enquiries. The report shows that of the 1,553 matters dealt with, about 70%, or 1,087, related to retail leasing disputes, such as rental increases, non-payment of rent, the state of premises at the end of a lease and minimum exclusivity periods for renewing leases.

The figures are a dramatic increase on the 2009-2010 year, where 995 retail tenancy matters were submitted.

FCA Chairman Stephen Giles says the report shows \$10 million in funding has been provided for the next four years, or \$2.5 million per annum.

"The VSBC focuses primarily on dispute resolution and providing business assistance. The SA Small Business Commissioner Bill proposes a substantially expanded role, with investigative, compliance monitoring and prosecution activities added. Accordingly, the SA Government could presumably expect to pay much more than \$2.5 million per year," he says.

Looking at the Victorian figures, and considering the estimates made by the Western Australian parliamentary committee considering the Abetz private member's bill, Mr Giles conservatively estimates the annual cost of the South Australian Bill at \$20 million over four years.

"If you assume 1,000 disputes in SA of which 200 require some investigation and 100 some form of prosecution, you can get to \$20 million without even blinking," he says.

"If the average cost per complaint in Victoria is \$1,600, and Victoria is primarily involved in mediated dispute resolution, you would have to at least treble that average cost estimate for South Australia given the extra functions and resources required.

"The SA Bill in its current form makes no reference to retail tenancies, with the purported initial focus intended to be on farming and franchising.

"Yet experience shows these areas generate statistically few disputes, and around 70% of complaints will come from retail tenancy. None of the proposed fines can apply to retail tenancy unless a new State retail tenancies code is introduced, which is unlikely given retail tenancy law is already regulated at State level. So there is no real potential for cost recovery.

"This VSBC report shows the South Australian Bill has not been properly thought through or costed.



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"The extension of the South Australian Bill beyond the scope of the Victorian model will add massive and unnecessary cost. The Victorian statistics provide a timely reminder of the cost of regulation even when that occurs efficiently and in a minimalist way. I doubt the SA Government would have any idea that they should expect perhaps 1,000 matters a year, so the cost blow out could be massive."

For more information, please contact:

FCA Chairman Stephen Giles on 0409 880 190 or email: stephen.giles@franchise.org.au



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