

House of Assembly—No 64

As laid on the table and read a first time, 17 June 2020

South Australia

Retail and Commercial Leases (Designated Anchor Lease) Amendment Bill 2020

A BILL FOR

An Act to amend the *Retail and Commercial Leases Act 1995*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Amendment provisions

Part 2—Amendment of *Retail and Commercial Leases Act 1995*

- 3 Insertion of section 62B
 - 62B Provisions regarding retail shop lease affected by termination or non-renewal of designated anchor lease in retail shopping centre
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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Retail and Commercial Leases (Designated Anchor Lease) Amendment Act 2020*.

2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Retail and Commercial Leases Act 1995*

3—Insertion of section 62B

After section 62A insert:

62B—Provisions regarding retail shop lease affected by termination or non-renewal of designated anchor lease in retail shopping centre

- (1) A retail shop lease is taken to include provisions to the following effect in relation to the termination or non-renewal of a designated anchor lease:
 - (a) if a designated anchor lease in a retail shopping centre is to be terminated or is not to be renewed—
 - (i) the lessor must, at least 3 months before the end of the designated anchor lease, notify all lessees in the same retail shopping centre that the designated anchor lease is to be terminated or is not to be renewed (as the case may be); and
 - (ii) the lessee may request a reassessment and determination of rent payable under the lease in accordance with the following provisions:

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- (A) the reassessment must be undertaken by a valuer appointed by the person for the time being holding or acting in the role of Chair of the South Australian State Committee of the Australian Property Institute Limited;
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- (B) the valuer must, in undertaking a reassessment of rent, take into account the effect of the termination or non-renewal of the designated anchor lease (as the case may be) on the lease;
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- (C) the valuer must, after undertaking a reassessment of rent, make a determination as to the amount of rent payable under the lease from a day specified in the determination;
- (D) the lessee and the lessor under the lease are liable for the costs of a valuation under this paragraph in equal shares;
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- (b) if the lessee requests a reassessment under paragraph (a)(ii), the amount of rent payable by the lessee is, until a determination is made under that paragraph, to be reduced by—
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- (i) an amount of 10% of the rent payable under the lease on the day on which notice is given by the lessor under paragraph (a)(i); or
- (ii) an amount prescribed by the regulations for the purposes of this paragraph,
- whichever is the greater;
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- (c) if a determination is made in respect of the lease under paragraph (a)(ii), the rent payable under the lease is, on and after the day specified in the determination, to be the amount of rent payable for the remaining term of the lease (subject to any provision of the lease that provides for rent to be changed to current market rent).
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- (2) For the purposes of subsection (1), a *designated anchor lease* in a retail shopping centre, means a retail shop lease—
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- (a) in respect of premises comprising a supermarket, department store or a cinema; or
- (b) in respect of premises that exceed an area prescribed by the regulations (which must be greater than half the size of the retail shopping centre); or
- (c) of a kind prescribed by the regulations.