

## BILL ESSENTIALS

### THE LAND TENANTS (SECURITY OF TENURE) (AMENDMENT) BILL, 2014

#### Background

The Land Tenants (Security of Tenure) (Amendment) Bill, 2014 was introduced and read a first time in the House of Representatives on Friday April 04, 2014.

The following provides a list of previous amendments to the **Land Tenants (Security of Tenure) Act, Chap. 59:54**<sup>1</sup>

BILL EFFECTING AMENDMENT	DETAILS	Notes
The Land Tenants (Security of Tenure)(Amendment) Act, 2010 <sup>2</sup>	<p><b>Act No. 10 of 2010 sought to amend section 4(3) of the Land Tenants (Security of Tenure) Act, Chap. 59:54</b> by modifying the timeframe by which a tenant could exercise the option of renewing a statutory lease.</p> <p>The period was changed from at least six months before the expiration of the lease to <b>on or</b> before the expiration of the lease.</p>	This Act was passed in the HoR and Senate on November 26 <sup>th</sup> and 29 <sup>th</sup> , 2010 respectively and was assented to on November 30 <sup>th</sup> , 2010.

#### What is the purpose of the Bill?

The Bill seeks to amend Section 4 (3) of the Land Tenants (Security of Tenure) Act, Chap. 59:54 by allowing for the State to stand as landlord and be served a written notice of a tenant's option to renew a statutory lease.

#### Relative Legislation mentioned in the Bill

- The Land Tenants (Security of Tenure) Act, Chap. 59:54

#### Key Features of the Proposed Legislation:

The Bill will:

- be inconsistent with Sections 4 and 5 of the Constitution.

<sup>1</sup> [http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical\\_List/lawspdfs/59.54.pdf](http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/59.54.pdf)

<sup>2</sup> <http://www.ttparliament.org/legislations/a2010-10.pdf>

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- require a three-fifths majority of both houses in order to be passed.
- be backdated and will therefore come into force on November 30<sup>th</sup>, 2010.

The Bill:

1. Inserts a new sub subsection (3A) and provides that where the identity, address or location of the landlord is unknown or where there are multiple landlords for the parcel of land, a notice of renewal may be served on the State as landlord by serving it on the Minister.
2. Amends Section 4(4) to permit a statutory lease to stand as renewed for a period of thirty years subject to the same terms, conditions and covenants, if any, as the original term of the statutory lease but excluding the option for renewal, where a notice of renewal is served under 3(A)
3. Validates the serving of a written notice of renewal of a statutory lease on the state as landlord under subsection 4(3A) during the period November 30<sup>th</sup>, 2010 to June 01<sup>st</sup>, 2011.

#### Considerations

- The Bill is inconsistent with section 4 and 5 of the Constitution.
- The Bill is retroactive in effect.
- The Bill validates renewal notices served on the State as landlord.

#### Comparison of Similar Legislation in other territories

Country	Legislation	Remarks
United Kingdom	Landlord and Tenant Act 1954 <sup>3</sup>	<b>Section 24 of the Act provides that:</b> A tenancy to which this Part of this Act applies shall not come to an end unless terminated in accordance with the provisions of this Part of this Act; and, subject to the provisions of section 29 of this Act, the tenant under such a tenancy may apply to the court for a new tenancy—  (a) if the landlord has given notice under section 25 of this Act to terminate the

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/Eliz2/2-3/56/data.pdf>

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		tenancy, or (b) if the tenant has made a request for a new tenancy in accordance with section 26 of this Act.
<b>Australia</b>	Western Australia Property Law Act 1969 <sup>4</sup>	Section 83E of the Property Law Act provides that where a lessee exercises or purports to exercise an option contained in a lease, the lease shall be deemed to continue in force until the issue decided by the Court. Section 83A (a) provides as follows: a reference to an option contained in a lease is a reference to a right on the part of the lessee to require the lessor – (i) to sell, or offer to sell, to the lessee the reversion expectant on the lease; or (j) to grant, or offer to grant, to the lessee a renewal or extension of the lease, or a further lease, of the demised premises or a part thereof, whether the right is conferred by the lease or by an agreement collateral to the lease.
<b>Canada</b>	<b>Nova Scotia Residential Tenancies Act CHAPTER 401 OF THE REVISED STATUTES, 1989</b> <sup>5</sup>	Section 10 A of the Residential Tenancies Act provides for: <b>Renewal term and daily rents</b> <b>10A (1)</b> A lease, except for a fixed-term lease, continues for the same type of term if no notice is given pursuant to subsection (1) of Section 10 and is deemed to have been <b>automatically renewed</b> .

<sup>4</sup>[http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:23268P/\\$FILE/Property%20Law%20Act%201969%20-%20%5B04-g0-02%5D.pdf?OpenElement](http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:23268P/$FILE/Property%20Law%20Act%201969%20-%20%5B04-g0-02%5D.pdf?OpenElement)

<sup>5</sup> <http://nslegislature.ca/legc/statutes/residential%20tenancies.pdf>

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	<b>Manitoba</b> The Landlord and Tenant Act <sup>6</sup>	<p>The Landlord and Tenant Act Section 58 of the Act provides for the Renewal on order of court in case of absentees as follows:</p> <p><u>58(1)</u> Where any person who, in pursuance of any covenant or agreement in writing, if within Manitoba and amenable to the process of the Court of Queen's Bench, might be compelled to execute any lease by way of renewal, is not within Manitoba, or is not amenable to the process of the court, the court, on the motion of any person entitled to the renewal, whether the person is or is not under any disability, may direct such person as the court thinks proper to appoint for that purpose to accept a surrender of the subsisting lease, and to make and execute a new lease in the name of the person who ought to have renewed the same.</p> <p><u>58(2)</u> A new lease executed by the person so appointed shall be as valid as if the person in whose name the same was made was alive and not under any disability and had himself executed it.</p>
<b>New Zealand</b>	<b>Property Law Act 2007</b> <sup>7</sup>	<p>Section 261(1) (d) of the Property Law Act provides for relief against a lessor's refusal to enter into renewal or sell reversion to lease. This section applies to a lease where the lessor has refused to extend or renew the lease, or enter into a new lease, or transfer or assign the reversion, as the case may be.</p>

<sup>6</sup> <http://web2.gov.mb.ca/laws/statutes/ccsm/l070e.php>

<sup>7</sup> <http://www.legislation.govt.nz/act/public/2007/0091/latest/versions.aspx>

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		Section 264 (2)(a)(i) provides that the court, on an application for relief under section 261, may order the lessor to extend or renew the lease or enter into a new lease with the lessee.
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**April 4<sup>th</sup>, 2014**