

Residential Tenancies (Damage Insurance) Amendment Bill

Member's Bill

Explanatory note

The purpose of this Bill is to amend the Residential Tenancies Act 1986 to protect tenants against personal liability for major damage caused to premises that they played no part in causing. The Bill does this by providing for landlords to insure the interests of tenants in this regard. Nothing in the Bill would prevent landlords from passing on the cost of additional premiums (if any) to tenants as part of the rent.

Tenancies are joint tenancies at common law, with each tenant being jointly and severally liable to the landlord for damage caused to premises. Damages arising from the negligence of one tenant have resulted in substantial liability being incurred by innocent co-tenants. The matter cannot be left to landlords' insurers because they may insist on recovery from the tenants. Legislative action requires to be taken to protect innocent users of tenancy premises in these circumstances.

Clause 5 amends section 45 of the Residential Tenancies Act 1986 concerning landlord's responsibilities. It requires the landlord to insure the interests of the tenant against liability for damage to the premises. This requirement does not apply where the damage was intentional and the tenant was personally responsible for it. The amendment also provides that the tenant has no liability in the event that the landlord fails to take out such insurance.

Maryan Street

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Residential Tenancies (Damage Insurance) Amendment Act **2006**.
- 2 Commencement**
This Act commences on the day after the date on which it receives the Royal assent. 5
- 3 Principal Act amended**
This Act amends the Residential Tenancies Act 1986.
- 4 Purpose**
The purpose of this Act is to amend the principal Act to protect innocent tenants against liability for damage to premises through provision for extension of landlords' insurance cover. 10
- 5 Landlord's responsibilities**
(1) Section 45(1) is amended by inserting, after paragraph (d), the following paragraph: 15

“(da) insure the interests of the tenant against liability for damage to the premises; and”.

(2) Section 45 is amended by inserting, after subsection (4), the following subsections:

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“(4A) **Subsection (1)(da)** does not apply where the damage is intentional and the tenant is personally responsible for it.

“(4B) Except as provided in this Part, no tenant is liable, whether to the landlord, any insurer of the landlord (whether acting by way of subrogation or otherwise), any other tenant, or any other person, in the event that the landlord fails to take out insurance as provided in **subsection (1)(da)**.”

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