

Dear Sirs,

My name is Dino Margiolas and I lease a tenpin bowling centre at Bundamba, QLD.
Below are the issues that I believe need to be reviewed relating to the Retail Tenancy Act.

Critical part of law to address	Reason
Security of tenure	<p>A business needs tenure to set-up, build up and close-down. Within a 5-year lease term, it is impossible, the business being most vulnerable at lease renewal with fixtures and fittings not yet written off. The broad principles should be:</p> <ul style="list-style-type: none"> ▪..... That for any new lease in a shopping centre, tenure should be granted to amortise set-up costs twice under the taxation legislation viz. 8 + 8 years; ▪..... 8 + 8 year terms may be split into terms within that at the tenant's request (say 3 + 5 = 8), and have at least one market review opportunity within each 8 year term and the commencement of the next 8 years; ▪..... At the request of either party up to one year before the end of the final term, more 8 year terms can be requested; ▪..... For strip shops the above principles apply but it is not a controlled environment and only a single 8 year term must be offered (or period totalling 8 years), but with options if agreed; ▪..... A requirement to do a refit will trigger a new 8 year term (to write it off); <ul style="list-style-type: none"> ▪..... Fitout requirements generally should be in sufficient detail for full costings to be done to negotiate the lease terms with IAS 38 or AASB 138 zero based costing principles, to avoid opportunistic leverage at renewal because of fitout cannot be written off and avoid unconscionable conduct arising; ▪..... At end of 8 + 8 years to avoid a previous tenant's site goodwill being taken without being paid, and to prevent "gazumping" a landlord may not offer a subsequent tenant a lease under the same permitted use, unless the parties have had the opportunity to sell the goodwill on the forward assumption of another 8 + 8 year lease offered at market value; ▪..... Less tenure can be requested by the tenant; ▪..... Shorter tenure may be offered by a landlord if there is a genuine extension, redevelopment. It will force landlords to plan ahead.
Disruption to trade, maintenance of centre, misrepresentation	<p>Generally, the provisions and principles are already established and must simply be enforced. I understand that in Canada, if centres renovate, extend or upgrade, business owners are sent away on holiday and come back to their shops either having been relocated or able to trade. It is cheaper for all concerned.</p>
End of lease & rent review principles	<p>The ACT end of lease dispute resolution mechanisms must be mandatory and the market review principles embodied in the Queensland, NSW and Victorian Acts should apply, with the permitted use and reasonable rent principles embodied.</p> <p style="text-align: center;">The latter two principles are critical in the retail arena.</p>
Fitout & pre-fitout works	<p>To reduce or avoid significant cost burdens and third line forcing requiring tenants to do fitouts with only one supplier (a related company belonging to the Landlord) should be outlawed.</p>
Sales data; business closures and why	<p>A commissioner should be appointed in every state:</p> <ul style="list-style-type: none"> ▪..... To collate sales data (excluding GST) for all centres from a Supermarket based centre upwards, perhaps on a quarterly basis in line with BASS (maybe off that data base); ▪..... To ensure sales turnover is presented and available on the Web for each centre on a "User Pays" basis; ▪..... To ensure all Lessor Disclosure Documents (which have essential lease rent data vs whole leases) are "Registered" including incentives if any granted. This to include leases that do not proceed; ▪..... To note all business closures over three years with the reasons why.

Outgoings Code of Conduct	Say no more, it is ready to go, simply attach it to the law as mandatory – simple rules just make it happen.
Enforcement	<ul style="list-style-type: none"> ▪..... State Tribunals are geared to retail. Compensation should be up to \$500,000 and enforcement in equity to avoid one party subsidising the other's "business". If one plays by the rules, there will be no need for it. ▪..... Tribunals may not depart from decisions of other jurisdictions or higher authorities. ▪..... Tribunals should be able to hear any matter including matters about rent. <ul style="list-style-type: none"> ▪..... No party should have to pay the other's legal expenses unless there is a judgement awarded against them. ▪..... In Tribunals, no costs may be awarded unless a claim is frivolous and vexatious.
When it comes into operation	<p>New tenancy law can come into operation:</p> <ul style="list-style-type: none"> ▪..... at any time by mutual agreement; ▪..... at the end of a lease or beginning of a new option period.
Guarantees	<ul style="list-style-type: none"> ▪..... Personal guarantees limited to three months gross rent; ▪..... No business owner should have to disclose more about their personal assets than a simple letter from the bank, that the proprietor has sufficient equity to cover set-up costs including stock, and that the business will cover the rent, provided it is paying current market rent; ▪..... On sale of business (assignment of lease), that party has no further obligations under the lease including guarantees.