

Leasehold and Freehold Reform Bill faces scrutiny in the House of Lords



Several themes arose in the speeches made in the House of Lords during the second reading of the Leasehold and Freehold Reform Bill on 27 March. Overall, the speakers expressed disappointment in the bill as drafted and a number referred to the need for the Labour party to “finish the job” if it is successful at the next General Election.

The Secretary of State had set out his intention to scrap leasehold and make all ground rents a peppercorn but that looks unlikely to happen and Baroness Taylor of Stevenage described it as an “eviscerated shell of a bill”.

The key themes of the speeches

1. Why forfeiture is not being banned as part of the reforms. Several of the speakers raised this as an issue stating that the practice is out of date and used too much by landlords as a threat.
2. Why Commonhold is not being introduced alongside a complete ban on new leasehold flats. Baroness Scott reiterated that it would take time to make Commonhold work and that was why it had not been included in the bill.
3. The need for regulation of property agents with some speakers suggesting that it would be better to regulate agents than to make Right to Manage (RTM) easier for lessees who would invariably proceed and appoint a professional managing agent from what is currently a significantly unregulated sector.
4. The failure to abolish ground rents appeared to be welcomed by some who see that there are genuine good freehold investors who purchase ground rent investments because they provide a certainty of income. There was an expressed concern that pension funds will fall in value if ground rents are abolished.

In her conclusion, Baroness Scott, stated that reforms on ground rent will have a negative impact on those who benefit from ground rent income, and this is being considered carefully following the consultation.

5. Why issues with the Building Safety Act have not yet been addressed – for example, the absence of protections for those in buildings 11 metres or lower and enfranchised leaseholders.
6. Abolition of marriage value Lord Howard of Rising referred to the proposed abolition of marriage value as a transfer of wealth from one to another “arbitrarily”. Discussion on this point centered on the effect any abolition would have on pension funds and whether there would be any potential for a Human Rights challenge to arise. Research referred to in the speeches on short leases makes interesting reading. Out of 5.2m leasehold properties in the UK only 400,000 leases are shorter than 80 years . Of those 400,000, 2/5 are owned by professional landlords (resulting effectively in a transfer of value from one investor (freeholder) to another(professional landlords). The remaining 3/5 are owner occupied and the abolition of marriage value would cause a significant loss of tax revenue for the government and where higher value properties are owned by foreign owners, this will result in a transfer of wealth out of the UK. During the debate, suggestion was made that marriage value should remain for those leases in existence prior to the commencement of the anticipated Act, with a remaining term of less than 80 years

The bill now passes to committee stage in the House of Lords and a provisional date of 22 April which can take some days and involves discussion on amendments to the bill. We will know more about any proposed amendments early next month.



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