

Fire Safety Bill

LORDS NON-INSISTENCE AND AMENDMENTS IN LIEU

[The page and line references are to HL Bill 132, the bill as first printed for the Lords]

After Clause 2

LORDS AMENDMENT 4

4 Insert the following new Clause –

“Prohibition on passing remediation costs on to leaseholders and tenants

- (1) The owner of a building may not pass the costs of any remedial work attributable to the provisions of this Act on to leaseholders or tenants of that building.
- (2) Subsection (1) does not apply to a leaseholder who is also the owner or part owner of the freehold of the building.”

COMMONS REASON

The Commons disagree to Lords Amendment 4 for the following Reason –

4A *Because the issue of remediation costs is too complex to be dealt with in the manner proposed.*

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The Lords do not insist on their Amendment 4, to which the Commons have disagreed for their Reason 4A, and do propose Amendments 4B, 4C, 4D and 4E in lieu –

4B After Clause 2, insert the following new Clause –

“Prohibition on passing remediation costs on to leaseholders and tenants

- (1) The owner of a building may not pass the costs of any remedial work attributable to the provisions of this Act on to leaseholders or tenants of that building.
- (2) Subsection (1) does not apply to a leaseholder who is also the owner or part owner of the freehold of the building.”

4C After Clause 2, insert the following new Clause –

“Costs arising from relevant notices or risk based guidance under the Fire Safety Order

- (1) This section applies to a long lease of a dwelling in a relevant building.
- (2) This section applies –
 - (a) where a notice has been served by an enforcing authority under article 28, article 29 or article 30 of the Fire Safety Order; or
 - (b) where a responsible person carries out works on the basis that they are required or said to be required by the risk based guidance issued by the Secretary of State under article 50 of the Fire Safety Order.
- (3) In the lease there is an implied covenant by the lessor, or any third party to the lease, that the lessor or third party shall not recover from the lessee any amount in respect of the costs of works under subsection (2) where the works are to remedy any defect, risk or issue that predated the first grant of a long lease of the dwelling.
- (4) Subsection (3) does not apply where the works are to repair a deterioration in original condition.
- (5) Subsection (3) does not apply to any interest or shareholding the lessee may have in any superior lessor or freeholder.
- (6) This section does not apply to commonhold land.
- (7) “Dwelling” has the meaning given by section 112 of the Commonhold and Leasehold Reform Act 2002 and “long lease” has the meaning given by sections 76 and 77 of that Act, save that, in the case of a shared ownership lease, it is irrelevant whether or not the tenant’s total share is 100%.”

4D After Clause 2, insert the following new Clause –

“Restriction on contracting out of section (*Costs arising from relevant notices or risk based guidance under the Fire Safety Order*)

A covenant or agreement, whether contained in a long lease to which section (*Costs arising from relevant notices or risk based guidance under the Fire Safety Order*) applies or in an agreement collateral to such a long lease, is void in so far as it purports –

- (a) to exclude or limit the obligations of the lessor or the immunities of the lessee under that section, or
- (b) to authorise any forfeiture or impose on the lessee any penalty, disability or obligation in the event of the lessee enforcing or relying upon those obligations or immunities.”

4E Clause 3, page 2, line 28, at end insert –

- “() Sections (*Costs arising from relevant notices or risk based guidance under the Fire Safety Order*) and (*Restriction on contracting out of section (Costs arising from relevant notices or risk based guidance under the Fire Safety Order)*) shall each come into force on the same day as section 1 comes fully or partially into force in respect of any premises in England.”

LORDS NON-INSISTENCE AND
AMENDMENTS IN LIEU TO THE
Fire Safety Bill

*Ordered, by The House of Commons,
to be Printed, 17th March 2021.*

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