

POLICY RESPONSE

Consumer Legislation Amendment Bill 2026

Real Estate Institute of Victoria | June 2026

REIV SUBMISSION

This document summarises the limitations and unintended consequences presented by the drafting approach of the Consumer Legislation Amendment Bill 2026.

The REIV submits this as an objective analysis of the implications should the Bill be legislated as currently drafted. Where feasible, amendments have been proposed.

PART
5

Amendment of Estate Agents Act 1980

Division 1 — Amendments in relation to property sale information collection, use and disclosure

Section 47AN — Disclosure of Property Sale Information to Director

THE BILL

*47AN — Estate agent or representative must disclose property sale information to the Director.
Penalty: 240 penalty units.*

⚠ KEY CONCERN

The measure misaligns accountability with decision-making authority

- The decision to disclose sale price rests with the buyer or seller, not the agent. Penalty units cannot apply to an agent for a decision they do not make.
- Exemptions are narrowly limited to family violence and prescribed reasons of health or safety risk, many legitimate privacy concerns fall outside these categories.

REIV
RECOMMENDATION

✓ RECOMMENDATIONS

- The party making the confidentiality decision should bear the legal responsibility.
- If Government wishes to mandate disclosure, the obligation should sit with the vendor (or vendor/purchaser jointly), with the agent acting only as the reporting party.
- Introduce statutory defences for agents where disclosure cannot occur due to vendor/purchaser instructions, pending exemption applications, inaccurate information supplied by parties, or circumstances outside the agent's control.
- Clarify treatment of related party sales, deceased estate transactions, high-profile vendors and security-sensitive transactions.
- Expand exemption grounds to include: *'where disclosure would unreasonably prejudice the privacy, safety, security or legitimate interests of the vendor or purchaser'*.

Section 47AP — Collection, Use, Disclosure and Publication of Property Sale Information

THE BILL

47AP — Collection, use, disclosure and publication of property sale information.

⚠️ KEY CONCERN

Lack of justification for duplication of database and associated taxpayer costs

- The Bill proposes an additional, public database of all sold price information without adequate justification of the additional costs and obligations it introduces.
- Sale price information is already collected through established mechanisms including Land Use Victoria transfer processes, SRO reporting requirements, local government valuation systems, and publicly available sales data from industry participants and property portals.
- The industry would be concerned if Victorian Property Fund (VPF) resources were redirected to support creation and maintenance of a database duplicating information already available through existing systems.
- It is unclear whether the costs, staffing requirements, technology infrastructure and ongoing administrative burden have been adequately considered.

REIV RECOMMENDATION

✓ RECOMMENDATIONS

- Clearly identify the policy rationale for establishing a separate CAV property sales database.
- Publish a regulatory impact assessment demonstrating the benefits of the proposed scheme relative to existing data sources.
- Confirm whether VPF resources will be used to establish, maintain or administer the database.
- Limit collection and publication powers to information that cannot be reasonably obtained through existing government systems.
- Ensure that any additional costs associated with administration of the scheme are not transferred to agents through licensing, compliance or regulatory changes.

Section 47AO — Exemption from Requirement to Disclose Property Sale Information

THE BILL

47AO — A seller, purchaser, or agent on their behalf may apply to the Director for an exemption within 7 days after the unconditional sale date.

⚠️ KEY CONCERN

Unreasonable timeframes and limited grounds for exemptions

- The 7-day timeframe unnecessarily narrows the window for sale price publication, creating room for errors.
- Grounds for exemptions should be expanded for legitimate security and privacy concerns, including judges, police, corrections officers or protected persons; commercial confidentiality; and deceased estates where families seek privacy.
- Where an exemption is applied for, s47AK(5) only allows for agents to be exempted or not, the drafting is binary and inflexible.

REIV RECOMMENDATION

✓ RECOMMENDATIONS

- For vendors: the application for exemption can be made at any time when a property is brought to market.
- For buyers: the application for exemption can be made at any time up to 7 days after the sale contract becomes unconditional.
- Grounds for exemptions should include: *'where disclosure would unreasonably prejudice the privacy, safety, security or legitimate interests of the vendor or purchaser'*.

Division 2 — General Amendments

Section 47AG — Seller's Reserve Price to be Requested Before Auction or Fixed-Date Sale

THE BILL

47AG(2) — *Estate agent must include a statement of the proposed reserve price for the residential property, with reasons.*

⚠ KEY CONCERN

Inaccurate interpretation of the agent's role in the sale process; the reserve price is determined by the vendor, not the agent

- It is the vendor's right to set the reserve price. It may be determined by their financial situation, urgency to sell or other personal circumstances.
- The agent's price estimate reflects their view of the market, competitive environment and demand. The agent should not propose a reserve price.
- This creates heightened litigation and professional indemnity risk. Reserve prices are inherently speculative and personal decisions.

REIV RECOMMENDATION

✓ RECOMMENDATIONS

- Section 47AG(2) must be removed to allow the vendor to propose their reserve price.
- The legislation should require the agent to request the vendor's reserve price and, only if requested by the vendor, provide advice regarding an appropriate reserve.
- Without such clarification, s47AG shifts reserve-setting responsibility onto agents, creating additional professional indemnity, compliance and litigation risks that do not currently exist.

Sections 47AH & 47AI — Reserve Price Publication and the 7-Day Rule

THE BILL

47AH & 47AI — *Seller's reserve price must be published for at least 7 days before auction or fixed-date sale. Penalty: 240 penalty units.*

⚠ KEY CONCERN

Inaccurate interpretation of the sale process that results in a constantly moving auction or fixed date sale

- No clarity on situations where the seller's reserve may change during the 7-day period. Changing market conditions such as interest rate decisions, comparable sales and macro-economic events, regularly impact reserve price decisions.
- Current drafting implies the auction or fixed-date sale date would need to change each time the reserve is altered. This is not practical or feasible and significantly increases costs for vendors.
- Reserve prices often change during an auction in response to live market feedback. The current draft does not address this, leaving it open to interpretation.
- Unlike bidding at auction where the sale is unconditional, buyers may add conditions to their offer for a fixed date sale. A vendor's decision to accept an offer can be based on both the price and the conditions offered, rendering a single reserve price inaccurate.
- Current drafting does not provide sufficient certainty for boardroom auctions, pre-auction competitive bidding, or other sale methods that may arise during a campaign.

Examples

- *A public auction is advertised for 26 June. Following publication of reserve, a buyer submits a pre-auction conditional offer, higher than the reserve, on 20 June that is valid till 21 June. The agent may request other interested buyers to submit their offers as the property is now unlikely to go to auction. Legislation is not clear on whether this a change in method of sale.*
- *The vendor changes their reserve on the day of the auction. Must the auction be called off and rescheduled for 7 days later?*

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RECOMMENDATION****✓ RECOMMENDATIONS**

- Representing the reserve price as a 10% range would allow for reserve price changes within the range without impacting the auction date.
- At a minimum, any downward revisions to reserve price must be permitted within the 7-day period without impact on the auction date.
- Any changes to reserve price during an auction should be explicitly permitted — any other approach would constantly move the auction date.
- Update the definition of 'fixed-date sale' to refer to campaigns launched with a 'fixed-date'.
- Expressly clarify the application of provisions to boardroom auctions, pre-auction offers and competitive bidding processes.

Page 114 (Definitions) — Sale Availability Time**THE BILL**

Definition — 'sale availability time' means at least 14 days before any publicly advertised auction or fixed-date sale, or in any other case, at least 14 days before a contract for the sale is signed.

⚠ KEY CONCERN**Unfair to buyers and sellers as a valid offer cannot be made or accepted**

- The drafting restricts any valid transaction where the method of sale is a private sale, or an offer is accepted prior to auction or sale by fixed date.
- In many circumstances both parties may be ready and willing to proceed, yet the requirement could prevent a contract from being signed if the Section 32 statement has not been available for 14 days.
- This delays transactions, reduces flexibility for vendors and purchasers, and interferes with established sales practices that allow parties to respond to market opportunities.
- It is unclear whether amendments to a Section 32 statement would restart the 14-day period, potentially delaying or preventing a sale even where purchasers have conducted their due diligence.
- Corresponding reforms are required to the Owners Corporations Act 2006, as OC certificates can often be delayed.

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RECOMMENDATION****✓ RECOMMENDATIONS**

- Replace 109(1)(b) with: '**within 14 days of the property being offered for sale**'. This achieves the objective of having the section 32 available without restricting bona fide transactions.
- Clarify the effect of amendments to a Section 32 statement on any prescribed timeframe.
- Ensure vendors are not prevented from accepting bona fide offers received prior to an auction or fixed-date sale.

PART
6

Amendment of Owners Corporations Act 2006

Section 32A — Payment Plans

FEEDBACK

The current drafting of s32A leaves room for misinterpretation that a payment plan could apply to the fee type going forward, rather than to any amount due or arrears.

RECOMMENDATION

Include a clearer reference to the fact that payment plans apply to any amount due or arrears, not to the ongoing fee type going forward.

PART
7

Amendment of Residential Tenancies Act 1997

Section 54B — Offence to Disable Certain Keys or Security Devices

THE BILL

54B — Offence to disable certain keys or security devices.

⚠ KEY CONCERN

Exceptions in s54B(3) are insufficient

- Section 54B(3) must be expanded to include further exceptions where a residential rental provider (RRP) may need to disable keys or security devices at the request of a renter.

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RECOMMENDATION

✓ RECOMMENDATIONS

- Expand s54B(3) to include:
 - keys or devices reported lost or stolen by a renter
 - situations where disabling is requested by the renter
 - in circumstances of family violence.

Section 58(4) — Return of Keys or Security Devices on Termination

THE BILL

58(4) — On termination, a renter must return all keys and security devices provided by the residential rental provider.

⚠ KEY CONCERN

Current drafting creates security risk for future occupiers

- The current provision limits the renter's obligation to returning only the keys and devices provided the rental provider, with no obligation to return any keys they may have reproduced during the tenancy.
- This creates a security risk for any future occupiers of the property.

REIV
RECOMMENDATION

✓ RECOMMENDATIONS

Update the drafting to require that on termination, renters must return **all keys and security devices in their possession.**

On termination of the residential rental agreement, a renter must return all keys and security devices provided by the residential rental provider, or a person acting on behalf of a residential rental provider, to the residential rental provider or the person acting on behalf of the residential rental provider

**PART
9****Amendment of Sale of Land Act 1962****Section 26A — Deposit Not to be Released Unless Provided by Contract****THE BILL**

Section 26A replaces section 27 — Deposit not to be released unless provided by contract.

⚠ KEY CONCERN**Removal of statutory protections for purchasers and significant departure from established conveyancing practice**

- This moves early release of deposit monies from a statutory entitlement model (with prescribed safeguards and the right of a purchaser to object) to a purely contractual model.
- Buyer protections are reduced where a buyer has not sought expert legal review of the contract before submitting an offer or bidding at auction.
- Represents a significant departure from current Victorian conveyancing practice and is likely to adversely affect vendors who rely on early access to deposit monies to facilitate related property purchases, reduce borrowing costs, discharge mortgages or meet other financial commitments prior to settlement.
- The proposed reforms reduce buyer protections and flexibility for vendors, creating unnecessary financial and transactional pressures without delivering any clear consumer benefit.

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RECOMMENDATION****✓ RECOMMENDATIONS**

- Section 27 should be retained.
- If the Government proceeds with the reform, retain a statutory mechanism for early release of deposit monies, including appropriate purchaser safeguards, rather than relying solely on contractual agreement.
- At a minimum, Government should demonstrate how the proposed contractual model will operate in practice and why it is preferable to the existing section 27 framework.

Section 26B — Estate Agent Must Not Retain Commission Before Settlement**THE BILL**

26B — Estate agent must not retain commission before settlement.

⚠ KEY CONCERN**Unnecessary restriction on receiving payment for services delivered where no further influence on outcomes is possible**

- Post signing of sale contract, the agent does not influence any contractual outcomes. Settlement and related decisions are with the legal representatives of both parties.
- If the vendor is permitted by contract to access the deposit, there is no justification to hold the agent's commission, which is likely a small percentage of the deposit amount.
- No evidence or information has been provided by Government to support this change in policy.

**REIV
RECOMMENDATION****✓ RECOMMENDATIONS**

- Section 27 should be retained.
- Should new section 26A be inserted, section 26B must be removed.
- The vendor should be permitted to direct funds to meet the agent's commission and authorised expenses from deposit monies validly released in accordance with the contract.