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**AN BILLE UM BEARTA AIRGEADAIS ÉIGEANDÁLA AR  
MHAITHE LE LEAS AN PHOBAIL (ATHBHREITHNITHE  
AR CHÍOSANNA TRÁCHTÁLA), 2012**

**FINANCIAL EMERGENCY MEASURES IN THE PUBLIC  
INTEREST (REVIEWS OF COMMERCIAL RENTS) BILL 2012**

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**EXPLANATORY MEMORANDUM**

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*Purpose of Bill*

The purpose of the Bill is to recognise the serious burden placed on businesses throughout the State, arising from the on-going decline in the domestic economy and decline in demand for goods and services, when faced with existing, “upwards only” commercial rent reviews.

As stated in the Preamble to the Bill—

a serious disturbance in the domestic economy and a decline in the economic circumstances of the State have occurred, which threaten the well-being of the community;

the viability of many businesses that are tenants of commercial premises is also threatened, with the threat of a consequent loss of employment in the State; and

in current circumstances leases of commercial premises providing for the periodic review of rents by way of increase only undermine the competitiveness of business and are inequitable, because they result in an unjust distribution of the economic burdens facing the community;

The Bill accordingly empowers the Government, in the public interest, by order to grant temporary relief from the operation of upwards only rent reviews by providing that such reviews cannot result in a rent higher than the current market rent.

*Provisions of Bill*

*Section 1* contains definitions of terms used in the Bill.

“Commercial premises” means buildings or structures used for the purposes of a retail trade, business or profession, but does not include any part of a building or structure in use as or as part of a dwelling house.

“Market rent”, in relation to the tenancy of commercial premises, means the rent which a willing tenant not already in occupation would give and a willing landlord would take for the premises, in each case on the basis of vacant possession being given. Regard must

be had to the other terms of the tenancy and to the letting values of premises of a similar size, type, character and location.

“Rent review” is defined as meaning any procedure (however it is described) for determining whether, and to what extent, a reduction or increase in the amount of the rent for the time being payable under a tenancy ought to have effect, including references to any formula, happening of any event or other matter whatsoever, regardless as to whether any act, decision or exercise of discretion on the part of any person is involved or not.

*Section 2* provides that, if the Government is of the opinion that, arising from a serious disturbance in the economy and a decline in economic circumstances in the State, tenants of commercial premises cannot fairly be expected to pay rents at the rates that were previously prevailing, it may make an order under this section.

An order may be limited to a class or type of commercial premises or to a particular geographical area in the State and it may provide for any incidental or ancillary matter that the Government considers necessary or expedient to give full effect to any provision of the order or to secure compliance with it.

An order will, unless it is earlier revoked, remain in force for no longer than 24 months.

*Section 3* provides that, so long as a Government order is in force, any lease of commercial premises to which the order applies shall be construed and have effect as if it prohibited the setting of a rent, as a result of a review of rent payable under the tenancy, at an amount greater than the amount of the market rent for that tenancy at that time.

Further, no provision of any lease or other agreement (whether entered into before, on or after the passing of this Bill) may operate to vary, modify or restrict in any way this section.

Provides for an immediate review of rent by either party to the lease.

*Section 4* provides for the short title of the Bill.

*Deputy Peadar Tóibín,  
March, 2012.*