Submission from Morton Fraser LLP

Long Leases (Scotland) Bill

I am writing to make a submission on the Long Leases (Scotland) Bill for your attention.

I have been considering the provisions of section 6 of the Bill from the point of view of a mortgage lender with a customer with leasehold title to property who has granted the lender a standard security over their (tenant’s) interest in the property. The concern from the mortgage lender’s viewpoint is to ensure that their standard security survives the conversion of a qualifying leasehold title to ownership under section 4.

Paragraphs 29, 30 and 31 of the Explanatory Notes accompanying the Bill appear to make it clear that the intention is that the customer’s standard security survives conversion, however it is far from conclusive either in the Explanatory Notes or in section 6 itself.

I would strongly suggest that if this is the desired intention, then section 6 is re-worded to make it a bit clearer. On repeated reading, I have still to convince myself that the combined effect of section 6(3) and 6(4) is anything other than that the mortgage lender’s standard security is extinguished on conversion.