

The Life Lease in Senior Housing: Recent Developments and Future Issues

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INTRODUCTION

Life Leases are a unique form of residential tenure that are gaining in popularity across Canada. Unfortunately, they are poorly understood by the public and only lightly regulated.

The research on which this poster is based is an assessment of the current legislative landscape in Saskatchewan, and an analysis of possible future issues which may arise under the life lease model.



FEATURES OF A LIFE LEASE

- ❖ A residential lease for over twenty years, or for life.
- ❖ Held between a **Lease Operator** and **Lease Owner**.
- ❖ The life lease does not create an interest in land.
- ❖ Holders pay a large lump-sum entry fee, a portion of which is refundable.
- ❖ Traditionally used by not-for-profit groups as an efficient way to fund senior housing.

FINANCING



NOT-FOR-PROFIT DEVELOPERS

Charitable groups can undertake large and complex projects using this model, which relies on the lease holder's equity and leaves the group with significantly less debt exposure than traditional financing methods

PROFIT-CENTRED DEVELOPERS

Private developers have started to show interest in the life lease model in recent years. The model is seen as low-risk for the same reasons it is attractive to charitable groups. In addition, the growing percentage of the population over the age of 65 with considerable equity in their homes forms a possibly lucrative market. Profits are made through monthly service fees, and interest from deposits.

LEGISLATION

SASKATCHEWAN

The Life Lease Act¹ received assent in 2022 but is not yet in force. The Minister intends the Act to provide consumer protection as well as continuing to encourage innovation in senior housing. The Act is waiting regulations, and key elements such as applicability and a forum for dispute resolution have yet to be decided.



Word cloud generated from life lease marketing materials

MANITOBA

The Life Leases Act² came into force in 1999, it is administered by the Residential Tenancies Board of the province. The Act was intended to provide consumer protection to seniors by requiring financial disclosure by the lease operator, the backing of entry fees by mortgages and providing a clear dispute resolution mechanism.

AREAS OF CONCERN

DISCLOSURE

Limited to the security of the pre-lease payments, and refundable nature of the entry fee. No requirement for full disclosure by the Operator, as would be found in condominium estoppel certificate.

ENTRY FUNDS

Entry funds required in Saskatoon range between \$90,000 and \$600,000. There is no requirement that these be held in trust or be backed by mortgage security. The entry fee is an unsecured loan to the operator, placing the holder at risk in the event of a bankruptcy.

RESERVE FUNDS

The Act requires a reserve fund to be in place, "subject to the regulations." Consultation by the Ministry suggests not all operators will be required to obtain a reserve fund study, nor share it with lease holders.

DISPUTE RESOLUTION

It seems likely the regulations will require private arbitration, rather than administrative oversight by an expert board.

1. Bill 72, An Act respecting Life Lease and making consequential amendments to other Acts, 2nd Sess, 29th Leg, Saskatchewan, 2022.

2. The Life Leases Act CCSM c L130