

Legislative Analysis



DOMESTIC VIOLENCE EARLY LEASE TERMINATION

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Senate Bill 185 (Substitute H-1)

Sponsor: Sen. Valde Garcia

House Committee: Intergovernmental and Regional Affairs

Senate Committee: Economic Development and Regulatory Reform

First Analysis (5-18-10)

BRIEF SUMMARY: The bill requires a tenant to be released from rental payment obligations if he or she submitted notice and documentation of a reasonable apprehension of present danger due to domestic violence, sexual assault, or stalking. To that end and for the victim's protection, the bill would prescribe requirements for necessary documentation; specify that the release would not apply to prepaid amounts nor prevent the landlord from withholding security deposits and other sums under to the act; prohibit the landlord from revealing the tenant's forwarding address except in certain circumstances; specify that other tenants who were parties to a rental agreement would remain subject to that agreement; and assure the landlord's right to pursue available remedies against parties who cause domestic violence, sexual assault, or stalking.

FISCAL IMPACT: The bill would have no fiscal impact on state or local government.

THE APPARENT PROBLEM:

Victims of domestic violence, sexual assault, or stalking can be particularly vulnerable to repeat violations. Often they must flee their homes, and relocate in order to evade their abusers.

When individuals who experience assault are tied to rental housing through a long-term lease, they might be forced to decide between remaining in a location where they can be easily found versus suffering the financial losses associated with breaking a rental agreement.

Legislation has been introduced to allow a tenant to be released from an obligation to pay rent, if he or she has a reasonable fear of domestic violence, sexual assault, or stalking.

THE CONTENT OF THE BILL:

Senate Bill 185 (H-1) would amend the Landlord-Tenant Act to do all of the following:

- Require a tenant to be released from rental payment obligations if he or she submitted notice and documentation of a reasonable apprehension of present danger due to domestic violence, sexual assault, or stalking.
- Prescribe requirements for the necessary documentation.

- Specify that the release would not apply to prepaid amounts and would not prevent the landlord from withholding security deposits and other sums under to the act.
- Prohibit the landlord from revealing the tenant's forwarding address except in certain circumstances.
- Specify that other tenants who were parties to a rental agreement would remain subject to that agreement.
- Assure the landlord's right to pursue available remedies against parties who cause domestic violence, sexual assault, or stalking.

These provisions would apply only to leases entered into, renewed, or renegotiated after the bill's effective date.

More specifically and under the bill, tenants who had a reasonable apprehension of present danger to themselves or to their children from domestic violence, sexual assault, or stalking while tenants would have to be released from their rental payment obligations after submitting written notice of their intent to seek a release, as well as written documentation that they had such a reasonable apprehension. The written notice would have to be by certified mail.

The bill specifies that a rental agreement could contain a statement that a tenant could have special statutory rights to seek a release of rental obligation. If the rental agreement did not contain that provision, the landlord would have to post a written notice, visible to a reasonable person, in the landlord's property management office or deliver written notice to the tenant when the lease was signed. A written notice would have to be identical to the statement required for the optional lease provision.

A tenant would have to be released from an obligation to pay rent not later than the first day of the second month that rent was due after notice was given. The release would not apply to prepaid amounts, including prepayment of the first and last months' rent. A release of rental obligation under the bill would not take effect before the tenant vacated the premises.

The bill would not prevent a landlord from withholding security deposits pursuant to the act or affect other sums that the landlord could withhold under the act or other applicable law.

Tenants would satisfy the requirement to provide written documentation that they had a reasonable apprehension of present danger from domestic violence, sexual assault, or stalking by providing one or more of the following documents to the landlord:

- A court-issued valid personal protection order or foreign protection order, or a court order removing an abusive person from a home that remained in effect on the date it was submitted.
- A valid probation order, conditional release order, or parole order that was still in effect on the date of submittal, if the order indicated that the person subject to it

was subject to conditions reasonably necessary to protect the tenant or his or her child, including a condition that the person was to have no contact with the tenant or child.

- A police report that resulted in the filing of charges not more than 14 days before the written notice and documentation were submitted.
- A police report that resulted in the filing of charges more than 14 days before the submittal of the notice and documentation demonstrating a verifiable threat of present danger from domestic violence, sexual assault, or stalking.
- A report verified by a qualified third party (defined below) that was substantially in the form set forth in the bill.

The landlord could reveal forwarding address information submitted by the tenant to other individuals only as reasonably necessary to accomplish the landlord's regular and ordinary business purpose. The landlord could not intentionally reveal forwarding address information or documentation submitted by the tenant to the person whom the tenant had identified as the source of the reasonable apprehension of domestic violence, sexual assault, or stalking.

If a rental agreement obligated multiple tenants to be liable for rental obligations and a tenant were released from rental obligations under the bill, all other tenants who were parties to the rental agreement would remain subject to it. Further, nothing in the act would prejudice a landlord's right to pursue available remedies against other parties under the act.

The bill defines the term "qualified third party" to mean one or more of the following: a sexual assault or domestic violence counselor; a health professional licensed or registered under the Public Health Code; a mental health professional as defined under the Mental Health Code; and a member of the clergy, if he or she is affiliated with a tax-exempt religious institution listed in a telephone directory.

Further, the bill would define "sexual assault or domestic violence counselor" as a person who is employed at or volunteers at a sexual assault or domestic violence crisis center and, in that capacity, provides advice, counseling, or other assistance to sexual assault or domestic violence victims and their families. And, the Mental Health Code defines "mental health professional" as an individual trained and experienced in the area of mental illness or developmental disabilities who is a licensed physician, psychologist, registered professional nurse, professional counselor, or marriage and family therapist.

MCL 554.601b

HOUSE COMMITTEE ACTION:

The members of the House Intergovernmental and Regional Affairs Committee made one amendment to the Senate-passed version of Senate Bill 185. Specifically, Senate Bill 185 (H-1) includes an amendment to assure that "nothing in the act would prejudice a landlord's right to pursue available remedies against other parties under the act." This

amendment allows landlords to bring suit against their renters who cause domestic violence, sexual assault, or stalking.

Information in this analysis is derived from the analysis of the Senate Fiscal Agency dated 4-19-10.

ARGUMENTS:

For:

Proponents of the bill note that a victim of sexual assault or domestic violence or a person being threatened by a stalker may need to relocate on short notice for reasons of personal safety. During these transitional periods, victims may suffer economic hardships in the form of loss of employment, moving expenses, or other factors directly related to taking actions to protect themselves and their children. Rental agreements often have significant financial penalties for early termination, which can contribute to financial burdens. This can force victims to choose between remaining vulnerable in a known location and paying a fee in order to escape a potential attacker.

Many victims would like to relocate to safer housing, but cannot afford to pay for both new housing and their rental obligations under an existing lease. By allowing a tenant with a reasonable fear of present danger due to domestic violence, sexual assault, or stalking to be released from rental payment obligations, the bill would address a significant safety concern for victims of those crimes, and could help prevent others from becoming victims.

Proponents also note that the bill would guard against abuse of the requirement that a person be released from rental obligations, because it is tailored toward specific types of victims who may be particularly vulnerable. Further, the bill's documentation requirements would address legitimate landlord concerns about early termination of leases while offering victims and potential victims a workable path to safety.

For:

Those who proposed the bill have worked with landlords to develop this legislation. Together, that coalition argues that any remedy allowing victims of domestic abuse, stalking, and sexual assault to escape lease agreements should not unduly burden property owners. The bill would offer a degree of protection to landlords in several ways: A tenant would not have to be released from an obligation to pay rent until the first day of the second month that rent was due after notice was given; the release would not apply to prepaid amounts, including the first and last months' rent and security deposits; and the release would not take effect before the tenant actually vacated the premises. The bill would strike a fair balance between a tenant's need to relocate immediately, and a landlord's need for a stable source of rental income.

Against:

The duty that the bill would impose on landlords could make them leery of renting to potential domestic violence, stalking, or sexual assault victims. If that happened, the bill actually could make it more difficult for victims to find safe, secure living arrangements.

Response:

The bill's requirement for a tenant to provide documentation of his or her reasonable apprehension, as well as the landlord's ability to retain prepaid amounts and a month's rent after termination of a lease, should ease landlords' concerns. Further, the bill was amended by the members of the House Committee on Intergovernmental and Regional Affairs to assure that "nothing in the act would prejudice a landlord's right to pursue available remedies against other parties under the act."

POSITIONS:

The Michigan Domestic Violence Prevention and Treatment Board supports the bill. (5-18-10)

The Michigan Advocacy Project (a joint project between the Michigan League for Human Services and the Michigan Poverty Law Program) supports the bill. (5-18-10)

The Michigan Coalition Against Domestic and Sexual Violence supports the bill. (5-18-10)

The Rental Property Owners Association of Michigan is neutral on the bill. (5-18-10)

The Property Management Association of Michigan is neutral on the bill. (5-18-10)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.