

SENATE BILL No. 185

January 29, 2009, Introduced by Senators GARCIA, ANDERSON, OLSHOVE, JACOBS, BIRKHOLZ, VAN WOERKOM, CHERRY, ALLEN, BRATER, CLARKE and RICHARDVILLE and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1972 PA 348, entitled

"An act to regulate relationships between landlords and tenants relative to rental agreements for rental units; to regulate the payment, repayment, use and investment of security deposits; to provide for commencement and termination inventories of rental units; to provide for termination arrangements relative to rental units; to provide for legal remedies; and to provide penalties,"

(MCL 554.601 to 554.616) by adding section 1b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1B. (1) A TENANT WHO HAS A REASONABLE APPREHENSION OF
2 PRESENT DANGER TO THE TENANT OR HIS OR HER CHILD FROM DOMESTIC
3 VIOLENCE, SEXUAL ASSAULT, OR STALKING WHILE THAT PERSON IS A
4 TENANT SHALL BE RELEASED FROM HIS OR HER RENTAL PAYMENT
5 OBLIGATION UPON SUBMITTAL OF WRITTEN NOTICE OF HIS OR HER INTENT
6 TO SEEK A RELEASE AND WRITTEN DOCUMENTATION THAT THE TENANT HAS A
7 REASONABLE APPREHENSION OF PRESENT DANGER TO THE TENANT OR HIS OR

1 HER CHILD FROM DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING. A
2 RENTAL AGREEMENT SHALL CONTAIN A PROVISION STATING "A TENANT WHO
3 HAS A REASONABLE APPREHENSION OF PRESENT DANGER TO HIM OR HER OR
4 HIS OR HER CHILD FROM DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR
5 STALKING MAY HAVE SPECIAL STATUTORY RIGHTS TO SEEK A RELEASE OF
6 RENTAL OBLIGATION UNDER MCL 554.601B."

7 (2) THE TENANT SHALL INCLUDE IN THE SUBMITTAL REQUIRED UNDER
8 SUBSECTION (1) A WRITTEN STATEMENT THAT THE TENANT OR A CHILD OF
9 THE TENANT HAS A REASONABLE APPREHENSION OF PRESENT DANGER FROM
10 DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING. FOR PURPOSES OF
11 RELEASING A TENANT FROM HIS OR HER OBLIGATION TO PAY RENT, THE
12 TENANT IS RELEASED FROM AN OBLIGATION TO PAY RENT NO LATER THAN
13 THE FIRST DAY OF THE SECOND MONTH THAT RENT IS DUE AFTER NOTICE
14 IS GIVEN. A RELEASE OF A RENTAL OBLIGATION UNDER THIS SECTION
15 DOES NOT APPLY TO PREPAID AMOUNTS, INCLUDING, BUT NOT LIMITED TO,
16 PREPAYMENT OF FIRST AND LAST MONTHS' RENT. A TENANT SHALL NOT
17 CONTINUE TO OCCUPY THE RENTAL UNIT AFTER THE TENANT IS RELEASED
18 FROM AN OBLIGATION TO PAY RENT. NOTHING IN THIS SECTION SHALL
19 PREVENT A LANDLORD FROM WITHHOLDING SECURITY DEPOSITS PURSUANT TO
20 SECTION 13(1)(D). THIS SUBSECTION DOES NOT AFFECT OTHER SUMS THAT
21 MAY BE WITHHELD BY THE LANDLORD UNDER THIS ACT OR OTHER
22 APPLICABLE LAW.

23 (3) THE REQUIREMENT IN SUBSECTION (1) THAT A TENANT PROVIDE
24 WRITTEN DOCUMENTATION THAT THE TENANT HAS A REASONABLE
25 APPREHENSION OF PRESENT DANGER TO THE TENANT OR HIS OR HER CHILD
26 FROM DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING IS SATISFIED
27 BY PROVIDING 1 OR MORE OF THE FOLLOWING WRITTEN DOCUMENTS TO THE

1 LANDLORD:

2 (A) A VALID PERSONAL PROTECTION ORDER OR FOREIGN PROTECTION
3 ORDER AS DEFINED IN SECTION 2950H OF THE REVISED JUDICATURE ACT
4 OF 1961, 1961 PA 236, MCL 600.2950H, ISSUED BY A COURT OF
5 COMPETENT JURISDICTION THAT REMAINS IN EFFECT ON THE DATE OF
6 SUBMITTAL.

7 (B) A VALID PROBATION ORDER, CONDITIONAL RELEASE ORDER, OR
8 PAROLE ORDER THAT IS STILL IN EFFECT ON THE DATE OF SUBMITTAL IF
9 THE PROBATION ORDER, CONDITIONAL RELEASE ORDER, OR PAROLE ORDER
10 INDICATES THAT THE INDIVIDUAL SUBJECT TO THE ORDER IS SUBJECT TO
11 CONDITIONS REASONABLY NECESSARY TO PROTECT THE TENANT OR CHILD OF
12 THE TENANT, INCLUDING A CONDITION THAT THE INDIVIDUAL IS TO HAVE
13 NO CONTACT WITH THE TENANT OR CHILD OF THE TENANT.

14 (C) A WRITTEN POLICE REPORT THAT HAS RESULTED IN THE FILING
15 OF CHARGES BY THE PROSECUTING ATTORNEY THAT HAS JURISDICTION OVER
16 THE MATTER IF THE CHARGES WERE FILED NOT MORE THAN 14 DAYS BEFORE
17 SUBMITTAL OF THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (1).

18 (D) A WRITTEN POLICE REPORT THAT HAS RESULTED IN THE FILING
19 OF CHARGES BY THE PROSECUTING ATTORNEY THAT HAS JURISDICTION OVER
20 THE MATTER IF THE CHARGES WERE FILED MORE THAN 14 DAYS BEFORE
21 SUBMITTAL OF THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (1). A
22 TENANT WHO USES A POLICE REPORT UNDER THIS SUBDIVISION SHALL
23 DEMONSTRATE A VERIFIABLE THREAT OF PRESENT DANGER FROM DOMESTIC
24 VIOLENCE, SEXUAL ASSAULT, OR STALKING. FILING OF THE FORM UNDER
25 SUBDIVISION (E) SHALL BE A DEMONSTRATION OF A VERIFIABLE THREAT
26 OF PRESENT DANGER FROM DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR
27 STALKING.

1 (E) SUBMITTAL TO THE LANDLORD OF A REPORT THAT IS VERIFIED
2 BY A QUALIFIED THIRD PARTY IN SUBSTANTIALLY THE FOLLOWING FORM:

3
4 [NAME OF ORGANIZATION, AGENCY, CLINIC, PROFESSIONAL SERVICE
5 PROVIDER]

6 I AND/OR MY(CHILD) HAVE/HAS A
7 REASONABLE APPREHENSION OF PRESENT DANGER FROM
8 ... DOMESTIC VIOLENCE AS DEFINED BY MCL 400.1501.
9 ... SEXUAL ASSAULT AS DEFINED BY MCL 750.520A TO
10 750.520/.
11 ... STALKING AS DEFINED BY MCL 750.411H OR 750.411I.

12 BRIEFLY DESCRIBE THE INCIDENT GIVING RISE TO THE
13 REASONABLE APPREHENSION OF DOMESTIC VIOLENCE, SEXUAL ASSAULT,
14 OR STALKING:
15

16 THE INCIDENT(S) THAT I RELY ON IN SUPPORT OF THIS
17 DECLARATION OCCURRED ON THE FOLLOWING DATE(S) AND
18 TIME(S): AND AT THE FOLLOWING LOCATION(S):
19

20 THE INCIDENT(S) THAT I RELY ON IN SUPPORT OF THIS
21 DECLARATION WAS/WERE COMMITTED BY THE FOLLOWING PERSON(S):
22

23 I STATE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
24 STATE OF MICHIGAN THAT THE FOREGOING IS TRUE AND CORRECT.
25 DATED AT (CITY) ..., MICHIGAN, THIS ... DAY OF,
26 20...

27
28 SIGNATURE OF TENANT OR
29 HOUSEHOLD MEMBER

30 I VERIFY THAT I HAVE PROVIDED SERVICES TO THE PERSON
31 WHOSE SIGNATURE APPEARS ABOVE AND THAT THE INDIVIDUAL HAS A

1 REASONABLE APPREHENSION OF PRESENT DANGER TO THE INDIVIDUAL OR
2 HIS OR HER CHILD FROM DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR
3 STALKING, AND THAT THE INDIVIDUAL INFORMED ME OF THE NAME OF
4 THE ALLEGED PERPETRATOR OF THE ACTIONS GIVING RISE TO THE
5 APPREHENSION. THIS VERIFICATION DOES NOT WAIVE ANY LEGALLY
6 RECOGNIZED PRIVILEGE THAT I, MY AGENCY, OR ANY
7 OF ITS REPRESENTATIVES HAVE HAD WITH THE PERSON WHOSE
8 SIGNATURE APPEARS ABOVE.

9 DATED THIS ... DAY OF, 20...

10
11 SIGNATURE OF AUTHORIZED
12 OFFICER/EMPLOYEE OF
13 (ORGANIZATION, AGENCY,
14 CLINIC, PROFESSIONAL
15 SERVICE PROVIDER)

16 (4) THE LANDLORD SHALL REVEAL FORWARDING ADDRESS INFORMATION
17 SUBMITTED BY THE TENANT TO OTHER INDIVIDUALS ONLY AS REASONABLY
18 NECESSARY TO ACCOMPLISH THE LANDLORD'S REGULAR AND ORDINARY
19 BUSINESS PURPOSE. THE LANDLORD SHALL NOT REVEAL FORWARDING
20 ADDRESS INFORMATION SUBMITTED BY THE TENANT TO THE PERSON THAT
21 THE TENANT HAS IDENTIFIED AS THE SOURCE OF THE REASONABLE
22 APPREHENSION OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING.

23 (5) IF A RENTAL AGREEMENT OBLIGATES MULTIPLE TENANTS TO BE
24 LIABLE FOR RENTAL OBLIGATIONS AND A TENANT IS RELEASED FROM HIS
25 OR HER RENTAL OBLIGATIONS UNDER THIS SECTION, ALL OTHER TENANTS
26 WHO ARE PARTIES TO THE RENTAL AGREEMENT REMAIN SUBJECT TO THE
27 RENTAL AGREEMENT.

28 (6) THIS SECTION APPLIES ONLY TO LEASES ENTERED INTO,
29 RENEWED, OR RENEGOTIATED AFTER THE EFFECTIVE DATE OF THE
30 AMENDATORY ACT THAT ADDED THIS SECTION.

1 (7) AS USED IN THIS SECTION:

2 (A) "DOMESTIC VIOLENCE" MEANS THAT TERM AS DEFINED IN
3 SECTION 1 OF 1978 PA 389, MCL 400.1501.

4 (B) "QUALIFIED THIRD PARTY" MEANS 1 OR MORE OF THE
5 FOLLOWING:

6 (i) A SEXUAL ASSAULT OR DOMESTIC VIOLENCE COUNSELOR.

7 (ii) A HEALTH PROFESSIONAL LICENSED OR REGISTERED UNDER
8 ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101
9 TO 333.18838.

10 (iii) A MENTAL HEALTH PROFESSIONAL AS DEFINED IN SECTION 100B
11 OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100B.

12 (iv) A MEMBER OF THE CLERGY, IF THE CLERGY MEMBER IS
13 AFFILIATED WITH A RELIGIOUS INSTITUTION LISTED IN A TELEPHONE
14 DIRECTORY.

15 (C) "SEXUAL ASSAULT" MEANS ASSAULT WITH THE INTENT TO COMMIT
16 CRIMINAL SEXUAL CONDUCT AS DESCRIBED IN SECTIONS 520A TO 520I OF
17 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A TO 750.520I.

18 (D) "SEXUAL ASSAULT OR DOMESTIC VIOLENCE COUNSELOR" MEANS A
19 PERSON WHO IS EMPLOYED AT OR WHO VOLUNTEERS SERVICE AT A SEXUAL
20 ASSAULT OR DOMESTIC VIOLENCE CRISIS CENTER AND WHO, IN THAT
21 CAPACITY, PROVIDES ADVICE, COUNSELING, OR OTHER ASSISTANCE TO
22 VICTIMS OF SEXUAL ASSAULT OR DOMESTIC VIOLENCE AND THEIR
23 FAMILIES.

24 (E) "STALKING" MEANS THAT TERM AS DEFINED IN SECTION 411H OR
25 411I OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.411H AND
26 750.411I.