

Act No. 199
Public Acts of 2010
Approved by the Governor
October 5, 2010
Filed with the Secretary of State
October 5, 2010
EFFECTIVE DATE: October 5, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Senators Garcia, Anderson, Olshove, Jacobs, Birkholz, Van Woerkom, Cherry, Allen, Brater, Clarke, Richardville, Barcia, Basham, Clark-Coleman, George, Gilbert, Gleason, Hardiman, Hunter, Jansen, Jelinek, Kahn, Kuipers, McManus, Nofs, Pappageorge, Prusi, Sanborn, Scott, Stamas and Whitmer

ENROLLED SENATE BILL No. 185

AN ACT 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:

Sec. 1b. (1) A tenant who has a reasonable apprehension of present danger to the tenant or his or her child from domestic violence, sexual assault, or stalking while that person is a tenant shall be released from his or her rental payment obligation in accordance with the requirements of this section after submittal of written notice of his or her intent to seek a release and written documentation that the tenant has a reasonable apprehension of present danger to the tenant or his or her child from domestic violence, sexual assault, or stalking. Submittal of written notice shall be made by certified mail. A rental agreement may contain a provision stating "A tenant who has a reasonable apprehension of present danger to him or her or his or her child from domestic violence, sexual assault, or stalking may have special statutory rights to seek a release of rental obligation under MCL 554.601b.". If the rental agreement does not contain such a provision, the landlord shall post written notice visible to a reasonable person in the landlord's property management office or deliver written notice to the tenant when the lease agreement is signed. The content of the written notice shall be identical to the provision in this section.

(2) The tenant shall include in the submittal required under subsection (1) a written statement that the tenant or a child of the tenant has a reasonable apprehension of present danger from domestic violence, sexual assault, or stalking. For purposes of releasing a tenant from his or her obligation to pay rent, the tenant is released from an obligation to pay rent no later than the first day of the second month that rent is due after notice is given. A release of a rental obligation under this section does not apply to prepaid amounts, including, but not limited to, prepayment of first and last months' rent. A release of rental obligation under this section does not take effect before the tenant vacates the premises. Nothing in this section shall prevent a landlord from withholding security deposits pursuant to section 13(1)(d). This subsection does not affect other sums that may be withheld by the landlord under this act or other applicable law.

(3) The requirement in subsection (1) that a tenant provide written documentation that the tenant has a reasonable apprehension of present danger to the tenant or his or her child from domestic violence, sexual assault, or stalking is satisfied by providing 1 or more of the following written documents to the landlord:

(a) A valid personal protection order or foreign protection order as defined in section 2950h of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2950h, or an order removing an abusive person from a home under MCL 712A.13a(4), issued by a court of competent jurisdiction that remains in effect on the date of submittal.

(b) A valid probation order, conditional release order, or parole order that is still in effect on the date of submittal if the probation order, conditional release order, or parole order indicates that the individual subject to the order is subject to conditions reasonably necessary to protect the tenant or child of the tenant, including a condition that the individual is to have no contact with the tenant or child of the tenant.

(c) A written police report that has resulted in the filing of charges by the prosecuting attorney that has jurisdiction over the matter if the charges were filed not more than 14 days before submittal of the written notice required under subsection (1).

(d) A written police report that has resulted in the filing of charges by the prosecuting attorney that has jurisdiction over the matter if the charges were filed more than 14 days before submittal of the written notice required under subsection (1). A tenant who uses a police report under this subdivision shall demonstrate a verifiable threat of present danger from domestic violence, sexual assault, or stalking. Filing of the form under subdivision (e) shall be a demonstration of a verifiable threat of present danger from domestic violence, sexual assault, or stalking.

(e) Submittal to the landlord of a report that is verified by a qualified third party in substantially the following form:

.....
[Name of organization, agency, clinic, professional service provider]

I and/or my.....(child) have/has a reasonable apprehension of present danger from

- ... domestic violence as defined by MCL 400.1501.
- ... sexual assault as defined by MCL 750.520a to 750.520l.
- ... stalking as defined by MCL 750.411h or 750.411i.

Briefly describe the incident giving rise to the reasonable apprehension of domestic violence, sexual assault, or stalking:

.....

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s):
and at the following location(s):

.....

The incident(s) that I rely on in support of this declaration was/were committed by the following person(s), if known:.....

I state under penalty of perjury under the laws of the state of Michigan that the foregoing is true and correct. By submitting this statement I do not waive any legally recognized privilege protecting any communications that I may have with the agency or representative whose name appears below or with any other person or entity. I understand that my obligation to pay rent will end no later than the first day of the second month that rent is due after I give notice. My obligation to pay rent does not end until I vacate the premises. I understand that my landlord may keep prepaid amounts, including first and last months' rent and all or part of my security deposit or other amounts as allowed under law.

Dated at (city)....., Michigan, this day of, 20

.....
Signature of Tenant or Household Member

I verify under penalty of perjury under the laws of the state of Michigan that I have provided services to the person whose signature appears above and that, based on information communicated to me by the person whose signature appears above, the individual has a reasonable apprehension of present danger to the individual or his or her child from domestic violence, sexual assault, or stalking, and that the individual informed me of the name of the alleged perpetrator of the actions, giving rise to the apprehension if known. This verification does not waive any legally recognized privilege that I, my agency, or any of its representatives have with the person whose signature appears above.

Dated this day of, 20

.....
Signature of authorized officer/employee of
(organization, agency, clinic, professional
service provider)

.....
License number or organizational
tax identification number

.....
Organization name

.....
Printed address

(4) The landlord shall 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 shall not intentionally reveal forwarding address information or documentation submitted by the tenant under this section to the person that the tenant has identified as the source of the reasonable apprehension of domestic violence, sexual assault, or stalking.

(5) If a rental agreement obligates multiple tenants to be liable for rental obligations and a tenant is released from his or her rental obligations under this section, all other tenants who are parties to the rental agreement remain subject to the rental agreement.

(6) This section applies only to leases entered into, renewed, or renegotiated after the effective date of the amendatory act that added this section.

(7) Nothing in this act shall prejudice a landlord's right to pursue available remedies against other parties under this act.

(8) As used in this section:

(a) "Child" means the minor child residing with the tenant or an adult child who is a legally incapacitated individual as that term is defined in section 1105 of the estates and protected individuals code, 1998 PA 386, MCL 700.1105.

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Qualified third party" means 1 or more of the following:

(i) A sexual assault or domestic violence counselor.

(ii) A health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iii) A mental health professional as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

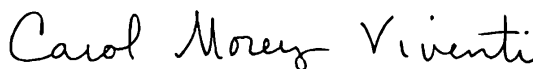
(iv) A member of the clergy, if the clergy member is affiliated with a tax-exempt religious institution under section 501(c)(3) of the internal revenue code that is listed in a telephone directory.

(d) "Sexual assault" means conduct described in sections 520a to 520l of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520l.

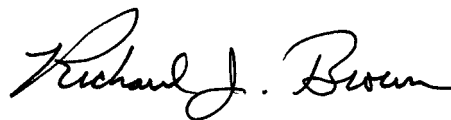
(e) "Sexual assault or domestic violence counselor" means a person who is employed at or who volunteers service at a sexual assault or domestic violence crisis center and who, in that capacity, provides advice, counseling, or other assistance to victims of sexual assault or domestic violence and their families.

(f) "Stalking" means that term as defined in section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

.....
Governor