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AB-418 Tenancy: termination: victims of violent crime. (2015-2016)

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Assembly Bill No. 418

CHAPTER 70

An act to amend and repeal Section 1946.7 of the Civil Code, relating to tenancy.

[Approved by Governor July 13, 2015. Filed with Secretary of State July 13, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 418, Chiu. Tenancy: termination: victims of violent crime.

Existing law, until January 1, 2016, authorizes a tenant to notify the landlord in writing that he or she or a household member, as defined, was a victim of an act of domestic violence or sexual assault and that the tenant intends to terminate the tenancy. Existing law requires that the tenant attach to the notice to terminate a tenancy a copy of a temporary restraining order or protective order that protects the tenant or household member from further domestic violence or sexual assault or to attach a report by a peace officer stating that the tenant or household member has filed a report alleging he or she or the household member is a victim of domestic violence or sexual assault.

Existing law authorizes the use of a tenant's security deposit to compensate a landlord for a tenant's default in the payment of rent. Existing law provides that existing law governing security deposits applies to these terminations.

This bill would extend these provisions indefinitely and would reduce the time limit for a tenant to give a notice of intent to vacate to the landlord under these provisions from 30 days to 14 days.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1946.7 of the Civil Code, as amended by Section 1 of Chapter 130 of the Statutes of 2013, is amended to read:

1946.7. (a) A tenant may notify the landlord that he or she or a household member was a victim of an act that constitutes an act of domestic violence as defined in Section 6211 of the Family Code, sexual assault as defined in Section 261, 261.5, 262, 286, 288a, or 289 of the Penal Code, stalking as defined in Section 1708.7, human trafficking as defined in Section 236.1 of the Penal Code, or abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code, and that the tenant intends to terminate the tenancy.

(b) A notice to terminate a tenancy under this section shall be in writing, with one of the following attached to the notice:

- (1) A copy of a temporary restraining order, emergency protective order, or protective order lawfully issued pursuant to Part 3 (commencing with Section 6240) or Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2 of

the Penal Code, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code that protects the tenant or household member from further domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult.

(2) A copy of a written report by a peace officer employed by a state or local law enforcement agency acting in his or her official capacity stating that the tenant or household member has filed a report alleging that he or she or the household member is a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult.

(3) (A) Documentation from a qualified third party based on information received by that third party while acting in his or her professional capacity to indicate that the tenant or household member is seeking assistance for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, stalking, human trafficking, elder abuse, or dependent adult abuse.

(B) The documentation shall contain, in substantially the same form, the following:

Tenant Statement and Qualified Third Party Statement
under Civil Code Section 1946.7

Part I. Statement By Tenant

I, [insert name of tenant], state as follows:

I, or a member of my household, have been a victim of:

[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, or dependent adult abuse.]

The most recent incident(s) happened on or about:

[insert date or dates.]

The incident(s) was/were committed by the following person(s), with these physical description(s), if known and safe to provide:

[if known and safe to provide, insert name(s) and physical description(s).]

(signature of tenant)(date)

Part II. Qualified Third Party Statement

I, [insert name of qualified third party], state as follows:

My business address and phone number are:

[insert business address and phone number.]

Check and complete one of the following:

____ I meet the requirements for a sexual assault counselor provided in Section 1035.2 of the Evidence Code and I am either engaged in an office, hospital, institution, or center commonly known as a rape crisis center described in that section or employed by an organization providing the programs specified in Section 13835.2 of the Penal Code.

____ I meet the requirements for a domestic violence counselor provided in Section 1037.1 of the Evidence Code and I am employed, whether financially compensated or not, by a domestic violence victim service organization, as defined in that section.

____ I meet the requirements for a human trafficking caseworker provided in Section 1038.2 of the Evidence Code and I am employed, whether financially compensated or not, by an organization that provides programs specified in Section 18294 of the Welfare and Institutions Code or in Section 13835.2 of the Penal Code.

____ I am licensed by the State of California as a:

[insert one of the following: physician and surgeon, osteopathic physician and surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.] and I am licensed by, and my license number is:

[insert name of state licensing entity and license number.]

The person who signed the Statement By Tenant above stated to me that he or she, or a member of his or her household, is a victim of:

[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, or dependent adult abuse.]

The person further stated to me the incident(s) occurred on or about the date(s) stated above.

I understand that the person who made the Statement By Tenant may use this document as a basis for terminating a lease with the person's landlord.

(signature of qualified third party)(date)

(C) The documentation may be signed by a person who meets the requirements for a sexual assault counselor, domestic violence counselor, or a human trafficking caseworker only if the documentation displays the letterhead of the office, hospital, institution, center, or organization, as appropriate, that engages or employs, whether financially compensated or not, this counselor or caseworker.

(c) The notice to terminate the tenancy shall be given within 180 days of the date that any order described in paragraph (1) of subdivision (b) was issued, within 180 days of the date that any written report described in paragraph (2) of subdivision (b) was made, or within the time period described in Section 1946.

(d) If notice to terminate the tenancy is provided to the landlord under this section, the tenant shall be responsible for payment of rent for no more than 14 calendar days following the giving of the notice, or for any shorter appropriate period as described in Section 1946 or the lease or rental agreement. The tenant shall be released from any rent payment obligation under the lease or rental agreement without penalty. If the premises are relet to another party prior to the end of the obligation to pay rent, the rent owed under this subdivision shall be prorated. Existing law governing the security deposit shall apply.

(e) Nothing in this section relieves a tenant, other than the tenant who is, or who has a household member who is, a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult and members of that tenant's household, from their obligations under the lease or rental agreement.

(f) (1) "Household member," as used in this section, means a member of the tenant's family who lives in the same household as the tenant.

(2) "Qualified third party," as used in this section, means a health practitioner, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, or a human trafficking caseworker, as defined in Section 1038.2 of the Evidence Code.

(3) "Health practitioner," as used in this section, means a physician and surgeon, osteopathic physician and surgeon, psychiatrist, psychologist, registered nurse, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.

(h) (1) A landlord shall not disclose any information provided by a tenant under this section to a third party unless the disclosure satisfies any one of the following:

(A) The tenant consents in writing to the disclosure.

(B) The disclosure is required by law or order of the court.

(2) A landlord's communication to a qualified third party who provides documentation under paragraph (3) of subdivision (b) to verify the contents of that documentation is not disclosure for purposes of this subdivision.

SEC. 2. Section 1946.7 of the Civil Code, as added by Section 2 of Chapter 130 of the Statutes of 2013, is repealed.