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SB-1190 Tenancy: termination. (2019-2020)

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Senate Bill No. 1190

CHAPTER 205

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

[Approved by Governor September 28, 2020. Filed with Secretary of State September 28, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1190, Durazo. Tenancy: termination.

Existing law authorizes a tenant to terminate a tenancy and to be released from any rent payment obligation under the lease or rental obligation without penalty if the tenant provides to the landlord a notice to terminate the tenancy because the tenant or a household member, as defined, was a victim of an act of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult. Existing law requires the notice to terminate the tenancy to be in writing and that the tenant attach to the notice one of the following: (a) a copy of a temporary restraining order or protective order, (b) a report by a peace officer stating that the tenant or household member has filed a report, or (c) documentation from a qualified third party, as defined, indicating that the tenant or household member is seeking assistance for physical or mental injuries or abuse.

This bill, among other things, would expand these provisions to authorize a tenant to terminate their tenancy without penalty because an immediate family member, as defined, was the victim of a crime, and would expand the list of eligible crimes to include, among others, a crime that caused bodily injury or death. The bill would additionally authorize a tenant to attach to the notice any form of documentation that reasonably verifies that the qualifying crime or act occurred.

This bill would also require a tenant terminating a tenancy when the immediate family member that is the victim of a qualifying crime or act did not live in the same household as the tenant and the crime or act did not occur within 1,000 feet of the tenant's dwelling unit, to provide a written statement to the landlord, as specified. The bill would prohibit a landlord from keeping the tenant's security deposit or advance rent if the tenant exercises these rights, and would specify that a tenant who terminates a rental agreement pursuant to these provisions shall not be considered to have breached the lease or rental agreement. The bill would prohibit an owner or an owner's agent from refusing to rent a dwelling unit to an otherwise qualified tenant solely on the basis that the tenant has previously exercised the tenant's rights under these provisions.

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 is amended to read:

1946.7. (a) A tenant may notify the landlord that the tenant intends to terminate the tenancy if the tenant, a household member, or an immediate family member was the victim of an act that constitutes any of the following:

- (1) Domestic violence as defined in Section 6211 of the Family Code.
- (2) Sexual assault as defined in Section 261, 261.5, 262, 286, 287, or 289 of the Penal Code.
- (3) Stalking as defined in Section 1708.7.
- (4) Human trafficking as defined in Section 236.1 of the Penal Code.
- (5) Abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code.
- (6) A crime that caused bodily injury or death.
- (7) A crime that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument.
- (8) A crime that included the use of force against the victim or a threat of force against the victim.

(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, household member, or immediate family member from further domestic violence, sexual assault, stalking, human trafficking, abuse of an elder or a dependent adult, or any act or crime listed in subdivision (a).

(2) A copy of a written report by a peace officer employed by a state or local law enforcement agency acting in the peace officer's official capacity stating that the tenant, household member, or immediate family member has filed a report alleging that the tenant, the household member, or the immediate family member is a victim of an act or crime listed in subdivision (a).

(3) (A) Documentation from a qualified third party based on information received by that third party while acting in the third party's professional capacity to indicate that the tenant, household member, or immediate family member is seeking assistance for physical or mental injuries or abuse resulting from an act or crime listed in subdivision (a).

(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 or immediate family, have been a victim of:

[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, or a crime that caused bodily injury or death, a crime that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument, or a crime that included the use of force against the victim or a threat of force against the victim.]

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 meet the definition of "victim of violent crime advocate" provided in Section 1947.6 of the Civil Code and I am employed, whether financially compensated or not, by a reputable agency or organization that has a documented record of providing services to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency.

____ 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 the person, or a member of the person's household or immediate family, is a victim of:

[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, or a crime that caused physical injury, emotional injury and the threat of physical injury, or death.]

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, a human trafficking caseworker, or a victim of violent crime advocate 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, caseworker, or advocate.

(4) Any other form of documentation that reasonably verifies that the crime or act listed in subdivision (a) occurred.

(c) If the tenant is terminating tenancy pursuant to subdivision (a) because an immediate family member is a victim of an eligible act or crime listed in subdivision (a) and that tenant did not live in the same household as the immediate family member at the time of the act or crime, and no part of the act or crime occurred within the dwelling unit or within 1,000 feet of the dwelling unit of the tenant, the tenant shall attach to the notice and other documentation required by subdivision (b) a written statement stating all of the following:

(1) The tenant's immediate family member was a victim of an act or crime listed in subdivision (a).

(2) The tenant intends to relocate as a result of the tenant's immediate family member being a victim of an act or crime listed in subdivision (a).

(3) The tenant is relocating to increase the safety, physical well-being, emotional well-being, psychological well-being, or financial security of the tenant or of the tenant's immediate family member as a result of the act or crime.

(d) 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, within 180 days of the date that a crime described in paragraph (6), (7), or (8) of subdivision (a) occurred, or within the time period described in Section 1946.

(e) 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.

(f) Notwithstanding any law, a landlord shall not require a tenant who terminates a lease or rental agreement pursuant to this section to forfeit any security deposit money or advance rent paid due to that termination. A tenant who terminates a rental agreement pursuant to this section shall not be considered for any purpose, by reason of the termination, to have breached the lease or rental agreement. Existing law governing the security deposit shall apply.

(g) This section does not relieve a tenant, other than the tenant who is, or who has a household member or immediate family member who is, a victim of an act or crime listed in subdivision (a) and members of that tenant's household, from their obligations under the lease or rental agreement.

(h) (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.

(4) "Immediate family member," as used in this section, means the parent, stepparent, spouse, child, child-in-law, stepchild, or sibling of the tenant, or any person living in the tenant's household at the time the crime or act listed in subdivision (a) occurred who has a relationship with the tenant that is substantially similar to that of a family member.

(5) "Victim of violent crime advocate," as used in this section, means a person who is employed, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of violent crimes for a reputable agency or organization that has a documented record of providing services to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency.

(i) (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.

(j) An owner or an owner's agent shall not refuse to rent a dwelling unit to an otherwise qualified prospective tenant or refuse to continue to rent to an existing tenant solely on the basis that the tenant has previously exercised the tenant's rights under this section or has previously terminated a tenancy because of the circumstances described in subdivision (a).