

ASSEMBLY BILL

No. 2052

Introduced by Assembly Member Lieu

February 19, 2008

An act to add Section 1946.7 to the Civil Code, relating to tenancies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2052, as introduced, Lieu. Residential tenancies: domestic violence.

Existing law governs the renewal and termination of a lease of real property based on the terms of the lease, or on the behavior of the parties.

This bill would provide that a tenant or household member who was a victim of an act of domestic violence, sexual assault, or stalking, as defined, may terminate the rental agreement and quit the premises and will be discharged from payment of rent for any period following the last day of the month of the quitting date, if the tenant or household member provides the landlord with written proof that the tenant or household member has a valid protective order, as defined, or that the tenant or household member has reported the domestic violence, sexual assault, or stalking to a qualified 3rd party acting in his or her official capacity and the qualified 3rd party has provided the tenant or the household member with written documentation that the person is a victim of the act. The bill would provide that the request to terminate the rental agreement must occur within 90 days of the act or circumstance that gave rise to the protective order or the date that written documentation is provided, and the written request must meet specific criteria. The bill would provide that a tenant who terminates a rental agreement in this manner is entitled to return of the full deposit,

notwithstanding lease provisions that allow forfeiture of a deposit for early termination and subject to Section 19505.5.

The bill would provide that other tenants who are parties to the rental agreement, except a household member who is a victim of domestic violence, sexual assault, or stalking and members of that person’s family, other than the person alleged to have committed the act, are not released from their obligations under the rental agreement.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1946.7 is added to the Civil Code, to
2 read:
3 1946.7. (a) (1) If a tenant notifies the landlord in writing that
4 he or she or a household member was a victim of an act that
5 constitutes an act of domestic violence as defined in Section 6211
6 of the Family Code, sexual assault under paragraph (1) of
7 subdivision (b) of Section 264.2 of the Penal Code, or stalking
8 under Section 6320 of the Family Code and either subparagraph
9 (A) or (B) applies, then paragraph (2) shall apply:
10 (A) The tenant or the household member has a valid protective
11 order after a hearing issued pursuant to Section 6340 of the Family
12 Code, Sections 136.2 and 1203.097 of the Penal Code, Section
13 527.6 of the Code of Civil Procedure, or Section 213.7 of the
14 Welfare and Institutions Code.
15 (B) The tenant or household member has reported the domestic
16 violence, sexual assault, or stalking to a qualified third party acting
17 in his or her official capacity and the qualified third party has
18 provided the tenant or the household member with written
19 documentation that the person is a victim of an act or acts
20 constituting domestic violence, sexual assault, or stalking.
21 (2) When a tenant provides a landlord with either the protective
22 order or the written documentation specified in subparagraph (A)
23 or (B) of paragraph (1), the tenant may terminate the rental
24 agreement and quit the premises and will be discharged from the
25 payment of rent for any period following the last day of the month
26 of the quitting date without further obligation under the rental
27 agreement or under Section 1946, if the following procedures are
28 met:

1 (A) The request to terminate the rental agreement must occur
2 within 90 days of the act or circumstance that gave rise to the
3 protective order or the date that written documentation is provided
4 by the qualified third party.

5 (B) (i) Written documentation provided by a qualified third
6 party shall consist of a document signed and dated by the qualified
7 third party stating all of the following:

8 (I) That the tenant or household member notified him or her
9 that he or she was a victim of an act or acts that constitute the crime
10 of domestic violence, sexual assault, or stalking.

11 (II) The time and date the act or acts occurred.

12 (III) The location where the act or acts occurred.

13 (IV) A brief description of the act or acts of domestic violence,
14 sexual assault, or stalking.

15 (V) That the tenant or household member informed him or her
16 of the name of the alleged perpetrator of the act or acts.

17 (ii) For the purposes of this section, “qualified third party”
18 means a peace officer employed by a state or local law enforcement
19 agency; an employee of an organization that provides social or
20 legal services to victims of domestic violence, sexual assault, or
21 stalking; a health care practitioner as specified under Division 2
22 of the Business and Professions Code; or a member of the clergy
23 as defined in Section 1030 of the Evidence Code.

24 (iii) A tenant who terminates a rental agreement under this
25 section is discharged from the payment of rent for any period
26 following the last day of the month of the quitting date.
27 Notwithstanding lease provisions that allow for forfeiture of a
28 deposit for early termination, a tenant who terminates under this
29 section is entitled to the return of the full deposit, subject to Section
30 1950.5.

31 (b) Other tenants who are parties to the rental agreement, except
32 a household member who is a victim of domestic violence, sexual
33 assault, or stalking and members of that person’s family, other
34 than the person alleged to have committed the acts of domestic
35 violence, sexual assault, or stalking, are not released from their
36 obligations under the rental agreement.

37 (c) The provision of written documentation provided by a
38 qualified third party under subparagraph (B) of paragraph (1) of
39 subdivision (a) does not waive the confidential or privileged nature
40 of the communication between a victim of domestic violence,

1 sexual assault, or stalking and a qualified third party under Section
2 994 (physician-patient privilege), Section 1014
3 (psychotherapist-patient privilege), Section 1033 (privilege of a
4 penitent), Section 1034 (privilege of a clergyman), Section 1035.8
5 (sexual assault counselor-victim privilege), or Section 1037.5
6 (domestic violence counselor-victim privilege) of the Evidence
7 Code. No record or evidence obtained from this disclosure may
8 be used in any civil, administrative, or criminal proceeding against
9 the victim unless a written waiver of applicable evidential privilege
10 is obtained, except that the documentation itself, and no other
11 privileged information, under paragraph (1) of subdivision (a) may
12 be used in civil proceedings brought under this section.

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