AMENDED IN SENATE AUGUST 16, 2012

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 28, 2012

AMENDED IN SENATE JUNE 19, 2012

SENATE BILL No. 1403

Introduced by Senator Yee

February 24, 2012

An act to amend Section 1946.7 of the Civil Code, and to amend Section 1161.3 of the Code of Civil Procedure, relating to domestic violence, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1403, as amended, Yee. Domestic violence: permanent restraining orders and elder abuse orders.

Existing law 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, sexual assault, or stalking and intends to terminate the tenancy, and requires that the tenant attach a copy of a temporary restraining order, emergency protective order, or a report by a peace officer to the notice. Existing law permits the tenant to quit the premises after notification and limits the tenant's obligation for payment of rent, as specified. Existing law requires the notice to terminate the tenancy to be given within 180 days of the date the order was issued or the report was made, or as specified.

This bill would include abuse of an elder or a dependent adult, as defined, among the acts for which a tenant may terminate a tenancy under the above provisions. The bill would also include a copy of a protective order among the approved documents required to be provided

to the landlord with a notice to terminate a tenancy under the above provisions.

Existing law prohibits a landlord from terminating a tenancy or failing to renew a tenancy based upon an act of domestic violence, sexual assault, or stalking against a protected tenant, as defined, or a protected tenant's household member when that act is documented by a temporary restraining order, emergency protective order, or a written report, as specified, and the person who is restrained from contact with the protected tenant under the protection order, or is named in the police report of that act is not a tenant of the same dwelling unit.

This bill would include protective orders among the documents that may be provided to establish domestic violence, sexual assault, or stalking against a protected tenant or a protected tenant's household member under the above provisions. The bill would also include abuse of an elder or a dependent adult among the acts for which a landlord may not terminate a tenancy or fail to renew a tenancy under the above provisions.

Existing law requires the Judicial Council, on or before January 1, 2012, to develop a new form or revise an existing form that may be used by a party to assert in the responsive pleading the grounds described above as an affirmative defense to an unlawful detainer action.

This bill would require that action by the Judicial Council to be taken on or before January 1, 2014.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated 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 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 Sections 261, 261.5, 262, 286, 288a, or 289 of the Penal Code, stalking as defined in Section 1708.7, 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, 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, or stalking.

(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 30 days following the giving of the notice, or within the appropriate period as described in Section 1946, and thereafter shall be released from any rent payment obligation under the rental agreement without penalty. Existing law governing the security deposit shall apply.

(e) If within the 30 days following the giving of the notice under this section the tenant quits the premises and the premises are rented to another party, the rent due on the premises for that 30-day period shall be prorated. Existing law governing the security deposit shall apply.

(f) 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, or abuse of an elder or a dependent adult and members of that tenant's household, from their obligations under the rental agreement.

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

SEC. 2. Section 1161.3 of the Code of Civil Procedure is amended to read:

1161.3. (a) Except as provided in subdivision (b), a landlord shall not terminate a tenancy or fail to renew a tenancy based upon an act or acts against a tenant or a tenant's household member that constitute domestic violence as defined in Section 6211 of the Family Code, sexual assault as defined in Section 1219, stalking as defined in Section 1708.7 of the Civil Code or Section 646.9 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, if both of the following apply:

(1) The act or acts of domestic violence, sexual assault, stalking, or abuse of an elder or a dependent adult have been documented by one of the following:

(A) A temporary restraining order, emergency protective order, or protective order lawfully issued within the last 180 days pursuant to Section 527.6, Part 3 (commencing with Section 6240), Part 4 (commencing with Section 6300), or Part 5 (commencing with Section 6400) of Division 10 of the Family Code, Section 136.2 of the Penal Code, or Section 213.5 or 15657.03 of the Welfare and Institutions Code that protects the tenant or household member from domestic violence, sexual assault, stalking, or abuse of an elder or a dependent adult.

(B) A copy of a written report, written within the last 180 days, 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, or abuse of an elder or a dependent adult.

(2) The person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, stalking, or abuse of an elder or dependent adult is not a tenant of the same dwelling unit as the tenant or household member.

(b) A landlord may terminate or decline to renew a tenancy after the tenant has availed himself or herself of the protections afforded by subdivision (a) if both of the following apply:

(1) Either of the following:

(A) The tenant allows the person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, stalking, or abuse of an elder or a dependent adult to visit the property.

(B) The landlord reasonably believes that the presence of the person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, stalking, or abuse of an elder or dependent adult poses a physical threat to other tenants, guests, invitees, or licensees, or to a tenant's right to quiet possession pursuant to Section 1927 of the Civil Code.

(2) The landlord previously gave at least three days' notice to the tenant to correct a violation of paragraph (1).

(c) Notwithstanding any provision in the lease to the contrary, the landlord shall not be liable to any other tenants for any action that arises due to the landlord's compliance with this section.

(d) For the purposes of this section, "tenant" means tenant, subtenant, lessee, or sublessee.

(e) The Judicial Council shall, on or before January 1, ~~2012,~~ *2014*, develop a new form or revise an existing form that may be used by a party to assert in the responsive pleading the grounds set forth in this section as an affirmative defense to an unlawful detainer action.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure improved protection against domestic violence and elder abuse in this state, it is necessary for this act to take effect immediately.

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