

Senate Bill No. 612

CHAPTER 130

An act to amend, repeal, and add Section 1946.7 of the Civil Code, and to amend Section 1161.3 of the Code of Civil Procedure, relating to residential tenancy.

[Approved by Governor August 19, 2013. Filed with
Secretary of State August 19, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 612, Leno. Residential tenancy: victims of human trafficking and elder or dependent adult abuse.

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, stalking, or abuse of an elder or dependent adult and that the tenant intends to terminate the tenancy. Existing law requires that the tenant attach to the notice to terminate either a copy of a temporary restraining order or protective order that protects the tenant or household member from further domestic violence, sexual assault, or abuse of an elder or dependent adult or a police report, as specified. 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.

Existing law requires, by January 1, 2014, the Judicial Council to develop or revise a form that may be used to assert, on the basis of these provisions, an affirmative defense to an unlawful detainer action.

This bill would expand these provisions to authorize a tenant to notify the landlord that he or she or a household member is a victim of human trafficking and the tenant intends to terminate the tenancy, as specified. Until January 1, 2016, the bill would include among the supporting documents that a tenant may attach to the notice to terminate a tenancy documentation that includes specified statements by the tenant and by a health practitioner, a domestic violence counselor, a sexual assault counselor, or a human trafficking caseworker to indicate that the tenant is seeking assistance for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult. The bill would make various conforming changes.

This bill would prohibit a landlord from disclosing any information provided by a tenant under these provisions to a 3rd party unless the disclosure is consented to in writing or is required by law or order of the court, except as specified.

This bill would extend, until July 1, 2014, the deadline for the Judicial Council to develop or revise the above-described form for an affirmative defense to an unlawful detainer action.

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 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 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, human trafficking, or abuse of an elder or a dependent adult and members of that tenant’s household, from their obligations under the rental agreement.

(g) (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.

(i) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 2. Section 1946.7 is added to the Civil Code, 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.

(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, human trafficking, 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.

(h) 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:

- (1) The tenant consents in writing to the disclosure.
- (2) The disclosure is required by law or order of the court.

(i) This section shall be operative January 1, 2016.

SEC. 3. 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, 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, if both of the following apply:

(1) The act or acts of domestic violence, sexual assault, stalking, human trafficking, 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, human trafficking, 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, human trafficking, 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, human trafficking, 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, human trafficking, 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, human trafficking, 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 July 1, 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.