

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 418

Introduced by Assembly Member Chiu
(Principal coauthor: Senator Leno)

February 19, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

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

~~(1) Existing~~

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.

~~(2) Existing law specifies the conditions required for a landlord to retain some or all of a tenant’s security deposit, based on specified criteria and authorizes the use of the security deposit to compensate a landlord for a tenant’s default in the payment of rent.~~

~~This bill would provide that the termination of a tenancy by a victim of crime under the above described provisions does not constitute a default in the payment of rent.~~

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 of the Civil Code, as amended
2 by Section 1 of Chapter 130 of the Statutes of 2013, is amended
3 to read:

4 1946.7. (a) A tenant may notify the landlord that he or she or
5 a household member was a victim of an act that constitutes an act
6 of domestic violence as defined in Section 6211 of the Family
7 Code, sexual assault as defined in Section 261, 261.5, 262, 286,
8 288a, or 289 of the Penal Code, stalking as defined in Section
9 1708.7, human trafficking as defined in Section 236.1 of the Penal
10 Code, or abuse of an elder or a dependent adult as defined in
11 Section 15610.07 of the Welfare and Institutions Code, and that
12 the tenant intends to terminate the tenancy.

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

15 (1) A copy of a temporary restraining order, emergency
16 protective order, or protective order lawfully issued pursuant to
17 Part 3 (commencing with Section 6240) or Part 4 (commencing
18 with Section 6300) of Division 10 of the Family Code, Section
19 136.2 of the Penal Code, Section 527.6 of the Code of Civil
20 Procedure, or Section 213.5 or 15657.03 of the Welfare and
21 Institutions Code that protects the tenant or household member
22 from further domestic violence, sexual assault, stalking, human
23 trafficking, or abuse of an elder or a dependent adult.

24 (2) A copy of a written report by a peace officer employed by
25 a state or local law enforcement agency acting in his or her official

1 capacity stating that the tenant or household member has filed a
2 report alleging that he or she or the household member is a victim
3 of domestic violence, sexual assault, stalking, human trafficking,
4 or abuse of an elder or a dependent adult.

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

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

13
14 **Tenant Statement and Qualified Third Party Statement**
15 **under Civil Code Section 1946.7**
16

17 Part I. Statement By Tenant

18
19 I, [insert name of tenant], state as follows:

20
21 I, or a member of my household, have been a victim of:
22 [insert one or more of the following: domestic violence, sexual assault, stalking,
23 human trafficking, elder abuse, or dependent adult abuse.]
24

25 The most recent incident(s) happened on or about:
26 [insert date or dates.]
27

28 The incident(s) was/were committed by the following person(s), with these
29 physical description(s), if known and safe to provide:
30 [if known and safe to provide, insert name(s) and physical description(s).]
31

32 _____
33 (signature of tenant) (date)
34

35 Part II. Qualified Third Party Statement

36
37 I, [insert name of qualified third party], state as follows:

38
39 My business address and phone number are:
40 [insert business address and phone number.]

1
 2 Check and complete one of the following:
 3 ___ I meet the requirements for a sexual assault counselor provided in Section
 4 1035.2 of the Evidence Code and I am either engaged in an office, hospital,
 5 institution, or center commonly known as a rape crisis center described in that
 6 section or employed by an organization providing the programs specified in
 7 Section 13835.2 of the Penal Code.

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

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

17 ___ I am licensed by the State of California as a:
 18 [insert one of the following: physician and surgeon, osteopathic physician and
 19 surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social
 20 worker, licensed marriage and family therapist, or licensed professional clinical
 21 counselor.] and I am licensed by, and my license number is:
 22 [insert name of state licensing entity and license number.]
 23

24 The person who signed the Statement By Tenant above stated to me that he
 25 or she, or a member of his or her household, is a victim of:
 26 [insert one or more of the following: domestic violence, sexual assault, stalking,
 27 human trafficking, elder abuse, or dependent adult abuse.]
 28 The person further stated to me the incident(s) occurred on or about the date(s)
 29 stated above.
 30

31
 32 I understand that the person who made the Statement By Tenant may use this
 33 document as a basis for terminating a lease with the person’s landlord.
 34

35 _____
 36 (signature of qualified third party) (date)
 37

38
 39 (C) The documentation may be signed by a person who meets
 40 the requirements for a sexual assault counselor, domestic violence

1 counselor, or a human trafficking caseworker only if the
2 documentation displays the letterhead of the office, hospital,
3 institution, center, or organization, as appropriate, that engages or
4 employs, whether financially compensated or not, this counselor
5 or caseworker.

6 (c) The notice to terminate the tenancy shall be given within
7 180 days of the date that any order described in paragraph (1) of
8 subdivision (b) was issued, within 180 days of the date that any
9 written report described in paragraph (2) of subdivision (b) was
10 made, or within the time period described in Section 1946.

11 (d) ~~(1)~~ If notice to terminate the tenancy is provided to the
12 landlord under this section, the tenant shall be responsible for
13 payment of rent for no more than 14 calendar days following the
14 giving of the notice, or for any shorter appropriate period as
15 described in Section 1946 or the lease or rental agreement. The
16 tenant shall be released from any rent payment obligation under
17 the lease or rental agreement without penalty. If the premises are
18 relet to another party prior to the end of the obligation to pay rent,
19 the rent owed under this subdivision shall be prorated. *Existing*
20 *law governing the security deposit shall apply.*

21 ~~(2) A tenancy terminated pursuant to this section shall not~~
22 ~~constitute a default in the payment of rent by the tenant. No~~
23 ~~deduction may be made pursuant to paragraph (1) of subdivision~~
24 ~~(b) of Section 1950.5 by reason of termination under this section.~~
25 ~~Section 1950.5 shall otherwise apply when a tenancy is terminated~~
26 ~~pursuant to this section.~~

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

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

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

1 trafficking caseworker, as defined in Section 1038.2 of the
2 Evidence Code.

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

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

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

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

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

17 SEC. 2. Section 1946.7 of the Civil Code, as added by Section
18 2 of Chapter 130 of the Statutes of 2013, is repealed.