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BILL ANALYSIS

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Senate Bill 185 (as enrolled)
Sponsor: Senator Valde Garcia
Senate Committee: Economic Development and Regulatory Reform
House Committee: Intergovernmental and Regional Affairs

Date Completed: 10-1-10

RATIONALE

Victims of domestic violence, sexual assault, or stalking can be particularly vulnerable to repeat violations. Victims, and those who fear being victimized, often must flee and relocate in order to evade their abusers. When these individuals are tied to rental housing through a long-term lease, they might be forced to decide between remaining in a location where they can be easily found or suffering the financial losses associated with breaking a rental agreement. Some people believe that a tenant should be released from an obligation to pay rent if he or she has a reasonable fear of domestic violence, sexual assault, or stalking.

CONTENT

The bill would amend the landlord-tenant Act to do all of the following:

- Require a tenant to be released from rental payment obligations if he or she submitted notice and documentation of a reasonable apprehension of present danger due to domestic violence, sexual assault, or stalking.**
- Prescribe requirements for the necessary documentation.**
- Specify that the release would not apply to prepaid amounts and would not prevent the landlord from withholding security deposits and other sums pursuant to the Act.**
- Prohibit the landlord from revealing the tenant's forwarding address except in certain circumstances.**

-- Specify that other tenants who were parties to a rental agreement would remain subject to that agreement.

These provisions would apply only to leases entered into, renewed, or renegotiated after the bill's effective date.

Specifically, a tenant who had a reasonable apprehension of present danger to himself or herself or his or her child from domestic violence, sexual assault, or stalking while he or she was a tenant would have to be released from his or her rental payment obligation after submitting written notice of his or her intent to seek a release and written documentation that he or she had such a reasonable apprehension. The written notice would have to be by certified mail.

A rental agreement could contain a specific statement that such a tenant could have special statutory rights to seek a release of rental obligation. If the rental agreement did not contain that provision, the landlord would have to post a written notice, visible to a reasonable person, in the landlord's property management office or deliver written notice to the tenant when the lease was signed. A written notice would have to be identical to the statement required for the optional lease provision.

A tenant would have to be released from an obligation to pay rent not later than the first day of the second month that rent was due after notice was given. The release would not apply to prepaid amounts, including

prepayment of the first and last months' rent. A release of rental obligation under the bill would not take effect before the tenant vacated the premises.

The bill would not prevent a landlord from withholding security deposits pursuant to the Act or affect other sums that the landlord could withhold under the Act or other applicable law.

A tenant would satisfy the requirement to provide written documentation that he or she had a reasonable apprehension of present danger from domestic violence, sexual assault, or stalking by providing one or more of the following documents to the landlord:

- A court-issued valid personal protection order or foreign protection order, or a court order removing an abusive person from a home, that remained in effect on the date it was submitted.
- A valid probation order, conditional release order, or parole order that was still in effect on the date of submittal, if the order indicated that the person subject to it was subject to conditions reasonably necessary to protect the tenant or his or her child, including a condition that the person was to have no contact with the tenant or child.
- A police report that resulted in the filing of charges not more than 14 days before the written notice and documentation were submitted.
- A police report that resulted in the filing of charges more than 14 days before the submittal of the notice and documentation demonstrating a verifiable threat of present danger from domestic violence, sexual assault, or stalking.
- A report verified by a qualified third party (defined below) that was substantially in the form set forth in the bill.

The landlord could reveal forwarding address information submitted by the tenant to other individuals only as reasonably necessary to accomplish the landlord's regular and ordinary business purpose. The landlord could not intentionally reveal forwarding address information or documentation submitted by the tenant to the person whom the tenant had identified as the source of the reasonable apprehension of domestic violence, sexual assault, or stalking.

If a rental agreement obligated multiple tenants to be liable for rental obligations and a tenant were released from his or her rental obligations under the bill, all other tenants who were parties to the rental agreement would remain subject to it. The bill specifies that it would not prejudice a landlord's right to pursue available remedies against other parties.

"Qualified third party" would mean one or more of the following:

- A sexual assault or domestic violence counselor.
- A health professional licensed or registered under the Public Health Code.
- A mental health professional as defined under the Mental Health Code
- A member of the clergy, if he or she is affiliated with a tax-exempt religious institution listed in a telephone directory.

(The bill would define "sexual assault or domestic violence counselor" as a person who is employed at or volunteers at a sexual assault or domestic violence crisis center and, in that capacity, provides advice, counseling, or other assistance to sexual assault or domestic violence victims and their families. The Mental Health Code defines "mental health professional" as an individual trained and experienced in the area of mental illness or developmental disabilities who is a licensed physician, psychologist, registered professional nurse, professional counselor, or marriage and family therapist.)

Proposed MCL 554.601b

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

A victim of sexual assault or domestic violence or a person being threatened by a stalker may need to relocate on short notice for reasons of personal safety. During these transitional periods, victims may suffer economic hardships in the form of loss of employment, moving expenses, or other factors directly related to taking actions to protect themselves and their children. Rental agreements often have significant

financial penalties for early termination, which can contribute to financial burdens. This can force victims to choose between remaining vulnerable in a known location, or paying a fee in order to escape a potential attacker. Many victims would like to relocate to safer housing, but cannot afford to pay for both new housing and their rental obligations under an existing lease. By allowing a tenant with a reasonable fear of present danger due to domestic violence, sexual assault, or stalking to be released from rental payment obligations, the bill would address a significant safety concern for victims of those crimes, and could help prevent others from becoming victims.

Supporting Argument

The bill would guard against abuse of the requirement that a person be released from rental obligations because it is tailored toward specific types of victims who may be particularly vulnerable. The bill's documentation requirements would address legitimate landlord concerns about early termination of leases while offering victims and potential victims a workable path to safety.

Supporting Argument

Any remedy allowing victims of domestic abuse, stalking, and sexual assault to escape lease agreements also should not unduly burden property owners. The bill would offer a degree of protection to landlords in several ways: A tenant would not have to be released from an obligation to pay rent until the first day of the second month that rent was due after notice was given; the release would not apply to prepaid amounts, including the first and last months' rent and security deposits; the release would not take effect before the tenant actually vacated the premises; other tenants who were parties to the rental agreement would remain subject to it; and a landlord could still seek available remedies against other parties. The bill would strike a fair balance between a tenant's need to relocate immediately, and a landlord's need for a stable source of rental income.

Opposing Argument

The duty that the bill would impose on landlords could make them leery of renting to potential domestic violence, stalking, or sexual assault victims. If that happened, the bill actually could make it more difficult for victims to find safe, secure living arrangements.

Response: The bill's requirement for a tenant to provide documentation of his or her reasonable apprehension, as well as the landlord's ability to retain prepaid amounts and a month's rent after termination of a lease, should ease landlords' concerns.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.