



**House
Legislative
Analysis
Section**

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BREAKING LEASE AGREEMENT

**House Bill 4287 as enrolled
Public Act 79 of 1995
Second Analysis (7-11-95)**

**Sponsor: Rep. Jan Dolan
House Committee: Commerce
Senate Committee: Local, Urban, and State
Affairs**

THE APPARENT PROBLEM:

Reportedly, a senior citizen who is placed on a waiting list for government subsidized housing often must wait more than three years before a rental unit is available. At that point, however, the senior may face another dilemma in that his or her current rental agreement may extend beyond the date at which the subsidized senior housing becomes available. Since leases usually include a penalty for breaking the contract early, a senior citizen whose financial situation qualifies him or her for public housing then is responsible for paying the penalty. The same is true for a person whose inability to live independently renders him or her unable to continue a rental agreement. To accommodate people caught in these situations, some people believe that a landlord-tenant rental agreement should be required to include an escape clause for senior citizens who become eligible for subsidized housing and people who become medically incapable of living independently.

THE CONTENT OF THE BILL:

The bill would amend the landlord-tenant act (MCL 554.601) to require a rental lease to include a provision specifying that a tenant who had occupied a rental unit for more than 13 months could terminate the lease by a 60-day written notice to the landlord, provided one of the following occurred during the lease term:

- * The tenant became eligible to take possession of a subsidized rental unit in "senior citizen housing" and provided the landlord with written proof of that eligibility;
- * The tenant became incapable of living independently, as certified by a physician in a notarized statement.

The bill would apply only to leases entered into, renewed, or renegotiated after the bill's effective date, in accordance with the constitutional prohibition against impairment of contracts under Article I, Section 10 of the State Constitution of 1963.

("Senior citizen housing" would mean housing for individuals 62 years of age or older that was subsidized in whole or in part under any federal, state, or local program.)

BACKGROUND INFORMATION:

Similar legislation (House Bill 4349) passed the House during the 1993-94 legislative session but died in a Senate Committee.

FISCAL IMPLICATIONS:

The House Fiscal Agency says the bill would not affect state or local budget expenditures. (7-11-95)

ARGUMENTS:

For:

Elderly citizens should not be forced to make a choice between paying for two rental units at the same time, or foregoing an opportunity to move into a more affordable senior housing unit, yet many senior citizens do find themselves facing this dilemma. The bill would help an older citizen who signed a rental agreement, but who simultaneously was on a waiting list for government subsidized housing, to avoid this situation. Under the bill, a senior citizen who met the bill's criteria could break a lease and give a landlord a 60-day written notice of his or her intention to move, without being penalized by the landlord. The bill, however,

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specifies that its provisions would apply only to leases that were entered into, renewed, or renegotiated after the bill's effective date to ensure that it would not conflict with constitutional provisions that prohibit the impairment of contracts.

Against:

The 13-month occupancy requirement would be unreasonable to tenants. If a senior becomes eligible for subsidized housing or if a person's incapacity renders him or her incapable of caring for himself or herself, that person should be excused from a rental agreement regardless of length of occupancy.

Response:

Without some assurance that a tenant would occupy a unit for an extended period, a landlord would be discouraged from offering a long-term lease to a senior citizen. Without the 13-month occupancy requirement, the bill actually could make it more difficult for seniors to find rental housing at affordable rates. If the 13-month requirement were removed, landlords could react to the bill by offering senior citizens only month-to-month leases, which tend to be more expensive than extended agreements (even though that action by a landlord could constitute discrimination under the Civil Rights Act).

Against:

The bill would place an unfair burden on landlords, who would never know when a lease entered into with a senior citizen might be broken. At the very least, the bill should require that landlords be notified as soon as a senior tenant placed his or her name on a list for subsidized senior citizen housing.

Response:

The bill offers reasonable protections to landlords because the escape clause required by the bill would apply only to a person who had occupied a rental unit for more than 13 months and the tenant would have to give a 60-day written notice to the landlord in order to terminate the lease agreement. This would ensure that landlords did not have to find new tenants every few months and would give them ample notice of a tenant's intent to vacate a rental unit. Further, if a landlord were notified that a tenant's name was being placed on a waiting list, the landlord could refuse to renew a lease while the tenant was on that list. This also could lead to seniors being offered only more expensive month-to-month rental agreements.

Against:

As passed by the House, the bill would have required a rental agreement to provide that the estate of a tenant who was at least 62 would be liable for not more than 60 days' or two months' rent if the tenant had passed away. The bill should include this protection of the finances of a deceased senior citizen's estate.

Response:

A deceased's estate is responsible for all of his or her financial obligations and there is no reason to excuse the estate from this one in particular. In addition, it is likely that a landlord or property manager of a rental unit whose occupant died would find a new tenant within a relatively short time, so a deceased's estate probably would not have to cover more than two months' rent in any event.