

EARLY LEASE TERMINATION BY TENANT UNDER CERTAIN CONDITIONS

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House Bill 4676 as introduced
Sponsor: Rep. Tenisha Yancey
Committee: Rules and Competitiveness
Complete to 10-5-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4676 would amend 1972 PA 348, known as the landlord-tenant act, to allow a tenant to terminate his or her lease upon submission of notice and documentation that the tenant or a member of his or her immediate family or household is a victim or witness of certain crimes. The bill would provide procedures for landlords and tenants in these situations, such as prescribing notice and documentation requirements and prohibiting a landlord from revealing the tenant's forwarding address or other information except in certain circumstances. The bill also would allow a tenant who wanted to stay in his or her rental unit after he or she or a member of his or her immediate family or household was a victim or witness of such a crime to request that the locks be changed and require the landlord to do so on an expedited basis.

Specifically, the bill would require that a tenant must be released from his or her lease and rent obligations, under provisions further described below, if the tenant or his or her *immediate family or household member* is a *victim* or *witness* of any of the following crimes (hereafter called "specified crimes") during the term of the lease:

- *Domestic violence.*
- *Sexual assault.*
- *Stalking.*
- A crime that caused any of the following to the victim, regardless of whether the person who committed it has been arrested or adjudicated:
 - Physical injury.
 - Psychological injury and a reasonably perceived or actual threat of physical injury.
 - Death.

Immediate family or household member would mean any of the following:

- A biological child, adopted child, foster child, stepchild, legal ward, child to whom the tenant stands in loco parentis, or individual to whom the tenant stood in loco parentis when the individual was a child.
- A parent, stepparent, adoptive parent, or individual who stands in loco parentis to the tenant or stood in loco parentis to the tenant when the tenant was a child.
- A biological, foster, step-, or adopted sibling.
- A spouse.
- An individual engaged to be married to the tenant.
- An individual living in the rental unit with the tenant who is in an intimate relationship with the tenant.
- An individual living in the rental unit with the tenant who is related to the tenant by blood, adoption, or marriage.

- An individual living in the rental unit with the tenant who has a significant relationship with the tenant that is established and emotional but who is not related to the tenant by blood, adoption, or marriage.

Victim would mean an individual who suffers an injury as a direct result of a specified crime.

Witness would mean an individual who witnessed any part of the commission of a specified crime without being the perpetrator of the crime or an accomplice.

Domestic violence would mean any of the following that is not an act of self-defense:

- Causing or attempting to cause physical or mental harm to a **family or household member**.
- Placing a family or household member in fear of physical or mental harm.
- Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.
- Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Family or household member (as used in the definition of **domestic violence**) would include any of the following:

- A spouse or former spouse.
- An individual with whom the person resides or has resided.
- An individual with whom the person has or has had a dating relationship (frequent, intimate associations primarily characterized by the expectation of affectional involvement, but not including a casual relationship or an ordinary fraternization between two individuals in a business or social context).
- An individual with whom the person is or has engaged in a sexual relationship.
- An individual to whom the person is related or was formerly related by marriage.
- An individual with whom the person has a child in common.
- A minor child of any of the above.

Sexual assault would mean an act that constitutes criminal sexual conduct in the first, second, third, or fourth degree or assault with intent to commit criminal sexual conduct in the first, second, or third degree under section 520b, 520c, 520d, 520e, or 520g of the Michigan Penal Code.

Stalking would mean a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Written notice

A tenant intending to be released from his or her lease and rent obligations as described above would have to submit to the landlord written notice of that intent, along with written documentation as described below. The notice would have to include a statement that the tenant

or his or her immediate family or household member is a witness or victim of a specified crime and that, as a result, the tenant intends to relocate for the safety, physical well-being, emotional well-being, or financial security of the tenant or his or her immediate family or household member. The notice would have to be made in a way reasonably calculated to give actual notice to the landlord, such as by any of the following:

- Certified mail.
- Email to an email address that the landlord or the landlord's representative provided to the tenant or previously used to communicate with the tenant.
- Personal delivery to the landlord or landlord's representative, signed by the tenant and the landlord or landlord's representative, with a copy or image retained by the tenant.
- Any other means, such as text message, that the landlord has previously accepted or provided notice of as a means of communication with the tenant.

Documentation to accompany written notice

Unless waived by the landlord in a written notice to the tenant, the tenant also would have to provide written documentation showing that he or she or his or her immediate family or household member is a victim or witness of a specified crime. This requirement could be met by providing one or more of the following documents to the landlord:

- A *personal protection order*, a *foreign protection order*, or a court order removing an abusive individual from a home under section 13a(4) of Chapter XIA of the Probate Code. The order would have to be valid, issued by a court of competent jurisdiction, and in effect on the date the tenant submits the written notice.
- A probation order, conditional release order, or parole order under which the individual subject to the order is subject to conditions that are reasonably necessary to protect the tenant or his or her immediate family or household member, such as a condition that the individual should have no contact with any of them. The order would have to be valid and in effect on the date the tenant submits the written notice.
- A police report or a statement from a law enforcement officer detailing the circumstances surrounding the commission of the specified crime.
- A court document showing proof of prosecution of a specified crime.
- A written and signed certification from a *qualified third party* stating that the tenant or his or her immediate family or household member is a victim or witness of a specified crime and that the third party has provided services to that person related to that crime.
- If an immediate family or household member is a deceased victim of a specified crime, a published obituary, a death certificate, or a written verification of the death, burial, or memorial service from a mortuary, funeral home, burial society, crematorium, religious institution, or medical examiner.
- Any other documentation authorized by state law or acceptable to the landlord.
- Any other documentation that reasonably verifies that the tenant or his or her immediate family or household member is a victim or witness of a specified crime, such as any of the following:
 - A document from a third party that is substantially similar to a police report, law enforcement officer statement, prosecution document, or certification from a qualified third party as described above.
 - Medical records showing injuries sustained by the tenant or his or her immediate family or household member that resulted from a specified crime.

- Written proof from the tenant that shows that a specified crime occurred. This could include voice messages, text messages, or threatening email from or with the perpetrator of the crime.

Personal protection order would mean a personal protection order issued under section 2950 or 2950a of the Revised Judicature Act and, unless the context indicated otherwise, would include a valid ***foreign protection order***.

Foreign protection order would mean an injunction or other order issued by a court of another state, an Indian tribe, or a United States territory for the purpose of preventing a person’s violent or threatening acts against, harassment of, contact or communication with, or physical proximity to another person.¹

Qualified third party would mean any of the following:

- A sexual assault or domestic violence counselor, which would mean a person who is employed by or volunteers at a sexual assault or domestic violence crisis center and there provides advice, counseling, or other assistance to victims of sexual assault or domestic violence and their families.
- A person who is employed by or volunteers at a victim services organization (an organization or agency that has a documented record of providing services to a victim of a specified crime) and there provides advice, counseling, or other assistance to victims of violent crimes and their families.
- A member of the clergy affiliated with a religious institution that is exempt from taxes under the federal Internal Revenue Code.
- Any of the following health professionals who is trained and experienced in the area of mental illness or developmental disabilities:
 - A physician.
 - A psychologist.
 - A registered professional nurse licensed or otherwise authorized to engage in the practice of nursing under the Public Health Code.
 - A licensed master’s social worker licensed or otherwise authorized to engage in the practice of social work at the master’s level under the Public Health Code.
 - A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under the Public Health Code.
 - A marriage and family therapist licensed or otherwise authorized to engage in the practice of marriage and family therapy under the Public Health Code.
- Any other health professional licensed or registered under the Public Health Code.

Time frame for validity of written notice

The written notice would have to be submitted within 180 days of the later of the following:

- The date the crime occurred.
- The date any of the following documents (described above) were issued or prepared:
 - A personal protection order, foreign protection order, or court order removing an abusive individual from a home under the Probate Code.

¹ For the full definition, see: <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-600-2950h.pdf>

- A probation order, conditional release order, or parole order containing conditions to protect the tenant or his or her immediate family or household member.
- A police report or statement from a law enforcement officer detailing the crime.

Release from rental agreement

A tenant would be released without penalty from the rental agreement and his or her obligation to pay rent no later than the first day of the second month that rent is due after the written notice and documentation are given as described above. However, a release from a lease and rent obligation could not take effect until the tenant had vacated the premises.

A release from a rental agreement and rent payment obligation under the bill would not be considered a breach of the rental agreement despite any other provision of law to the contrary. The tenant would not forfeit any security deposit or rent advance paid to the landlord under the rental agreement, and the retention or return of the deposit or advance would be subject to the act or other applicable laws. The bill would not affect a tenant's liability for unpaid rent or other amounts due and owed to the landlord before the release from the lease under the bill.

Confidentiality of tenant's information

The tenant's forwarding address and the information contained in the written notice and documentation would be confidential, and a landlord would be prohibited from providing that information to any other person unless it was in a public record. However, the landlord could disclose the information under the following circumstances:

- The tenant requests the disclosure or consents in writing to the disclosure.
- The disclosure is required by a court order.
- The disclosure is necessary to conduct the landlord's regular and ordinary business. However, a landlord could not intentionally disclose information under this provision to an individual identified by the tenant as the perpetrator of a specified crime or who the landlord reasonably knows is the perpetrator of a specified crime against the tenant or his or her immediate family or household member.

New locks

If a tenant or his or her immediate family or household member was a victim or witness of a specified crime and the tenant wanted to stay in the rental unit, he or she could notify the landlord in writing that he or she intends to stay in the unit and requesting that the locks be changed. The request would have to include documentation as described above.

Within two business days after receiving the request, the landlord would have to make a good-faith effort to change the locks and give the tenant the new key or would have to give the tenant permission to change the locks at the landlord's expense. The landlord could not provide the new key to an individual who the landlord knows is the perpetrator of a specified crime against the tenant or his or her immediate family or household member.

If within two business days the landlord does not change the locks or give the tenant permission to do so, the tenant could change the locks without the landlord's permission and at the landlord's expense. The tenant would have to change them in a workmanlike manner with locks of similar quality, promptly notify the landlord that they have been changed, and provide new keys to the landlord at the landlord's request. The landlord would have to reimburse the tenant for the actual expense incurred in changing the locks.

Limitations and prohibitions

The bill's provisions could not be waived or modified by a rental agreement.

A landlord could not terminate the rental agreement of a tenant or retaliate against him or her solely because the tenant or his or her immediate family or household member is a victim or witness of a specified crime.

A prospective landlord could not do any of the following based solely on the fact that an individual was previously released from a rental agreement under the provisions of the bill:

- Refuse to enter into a rental agreement with him or her.
- Refuse to negotiate for the renting of a rental unit with him or her.
- Refuse to make a rental unit available for renting to him or her.

Other provisions

A rental agreement could include the following statement: "A tenant may have special statutory rights to seek a release of rental obligation under MCL 554.601c [the section that would be added by House Bill 4676] if the tenant or his or her immediate family or household member is a victim or witness of domestic violence, sexual assault, stalking, or a crime that caused physical injury, psychological injury and a reasonably perceived or actual threat of physical injury, or death to the victim, regardless of whether the individual who committed the crime has been arrested or adjudicated."

The provisions of the bill would not prejudice a landlord's right to pursue available remedies against any other person under the act.

Proposed MCL 554.601c

BACKGROUND:

Section 1b of the act now requires a tenant to be released from rental payment obligations if he or she submits notice and documentation of a reasonable apprehension of present danger due to domestic violence, sexual assault, or stalking.²

FISCAL IMPACT:

House Bill 4676 would not have a direct fiscal impact on state or local government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

² See <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-554-601b.pdf>
and <https://www.legislature.mi.gov/documents/2009-2010/billanalysis/House/pdf/2009-HLA-0185-3.pdf>