



Legal Update

January 8, 2013

An Act Relative to Housing Rights for Victims of Domestic Violence, Rape, Sexual Assault and Stalking

On January 3, 2013, Governor Patrick signed “*An Act Relative to Housing Rights for Victims of Domestic Violence, Rape, Sexual Assault and Stalking.*” This legislation takes effect ninety days after January 3, 2013 and amends G.L. c. 186 by adding sections 23 to 29. The sections pertinent to advocates and assistant district attorneys are summarized below, and the complete Act is attached to this email.

New Definitions, G.L. c. 186, § 23:

Provides definitions of the statute’s operative language

Termination of Rental Agreement or Tenancy, G.L. c. 186, § 24:

(a) A tenant or co-tenant may terminate a rental agreement or tenancy and quit the premises upon written notification to the owner that a member of the household is a victim of domestic violence, rape, sexual assault or stalking. Such notification must be given within three months of the most recent incident.

A tenant or co-tenant may terminate a rental agreement or tenancy and quit the premises if a member of the tenant’s household is reasonably in fear of imminent serious physical harm from domestic violence, rape, sexual assault or stalking.

The owner has the right to request proof of the status of a victim, see section (e).

(b) The tenant, co-tenant, or household member must quit the premises in three months or the notice to terminate the rental agreement or tenancy shall be void.

(c) “A tenant or co-tenant to whom this section applies shall be discharged from liability for rent or use of occupancy for 30 days or 1 full rental period after the quitting date, whichever last occurs, to the extent that a rental agreement and applicable law may otherwise impose such liability beyond the quitting date.”

(d) “No other tenant or co-tenant who is party to the rental agreement shall be released from such tenant’s or co-tenant’s obligations under the rental agreement or other obligations under this chapter.”

(e) If relief is sought because of ongoing domestic violence, rape, sexual assault or stalking, the owner may request proof of a protective order or third-party verification of the victim’s status as a victim.

Production of any one of the following documents will satisfy this proof:

1. A copy of a valid protection order under 209A or 258E obtained by the tenant, co-tenant or household member;
2. A record from federal, state or local court or law enforcement of an act of domestic violence, rape, sexual assault or stalking and the name of the perpetrator;
3. A written verification from any other *qualified third party*. Section 23 defines qualified third party, which includes District Attorneys, assistant district attorneys and victim witness advocates. The specifications for a written verification are provided in this section.

(f) Documentation of proof shall be kept confidential unless otherwise ordered.

No Refusal for Future Rental Applications, G.L. c. 186, § 25:

An owner cannot refuse to enter into a rental agreement nor can a housing subsidy provider deny assistance based on applicant previously terminating a lease, pursuant to § 24 or a request to change the locks, pursuant to § 26.

Change of Locks, G.L. c. 186, § 26:

This section details how a tenant, co-tenant, or household member may request a change of locks based on an imminent threat of domestic violence, rape, sexual assault or stalking at the premises. Once a request is made an owner shall make a good faith effort to change the locks within two days or give permission to the tenant, co-tenant or household member to change the locks.

Jurisdiction, G.L. c. 186, § 27:

“The superior court, housing court, district court and Boston municipal court shall have jurisdiction in equity to restrain violations of sections 23 to 26, inclusive.”

Waiver, G.L. c. 186, § 28:

Any waiver of sections 23 to 27 is void and unenforceable.