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Bill 45

An Act to amend the Residential Tenancies Act, 2006 with respect to tenant privacy

Mr. P. Tabuns

Private Member's Bill

1st Reading April 12, 2018

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill amends the *Residential Tenancies Act, 2006*. It is about tenant privacy.

The Bill requires a landlord to give notice in writing before entering a rented unit to show it to a prospective tenant.

The Bill requires a landlord, broker or salesperson to give notice in writing seven days before holding an open house for a rented unit that is posted for sale. It limits the number and frequency of open houses.

The Bill prevents a landlord, broker or salesperson from taking photographs or other visual records of a rented unit except if the tenant consents. It sets out a process for seeking consent, with limits on taking, using and retaining the photograph or record.

An Act to amend the Residential Tenancies Act, 2006 with respect to tenant privacy

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1 Subsection 26 (3) of the *Residential Tenancies Act, 2006* is repealed.

2 (1) Subsection 27 (1) of the Act is amended by adding the following paragraph:

4.1 To show the rental unit to prospective tenants, if,

- i. the landlord and tenant have agreed that the tenancy will be terminated or one of them has given notice of termination to the other, and
- ii. the landlord enters the rental unit between the hours of 8 a.m. and 8 p.m.

(2) Subsection 27 (2) of the Act is amended by striking out “to allow a potential purchaser to view the rental unit” at the end and substituting “to show a potential purchaser the rental unit, but not to hold an open house”.

(3) Section 27 of the Act is amended by adding the following subsection:

Same

(2.1) A landlord or, with the written authorization of a landlord, a broker or salesperson registered under the *Real Estate and Business Brokers Act, 2002*, may enter a rental unit in accordance with written notice given to the tenant at least seven days before the time of entry to hold an open house if the rental unit is on the market to be sold, but the number and frequency of open houses must be reasonable.

(4) Subsection 27 (3) of the Act is amended by striking out “subsection (1) or (2)” and substituting “subsection (1), (2) or (2.1)”.

3 The Act is amended by adding the following section:

Photograph, visual record

27.1 (1) A landlord, broker or salesperson who has entered a rental unit shall not take a photograph or other visual record of the rental unit while in the rental unit, except if all of the following conditions apply:

1. The tenant is given a written notice of intention to take a photograph or other visual record, setting out at least all of the following information:
 - i. which area of the unit will be photographed or recorded,
 - ii. the purpose of the taking of the photograph or record,
 - iii. how the photograph or record will be used,
 - iv. how long the photograph or record will be retained, and
 - v. the date and time of the taking of the photograph or record.
2. After receiving the written notice of intention, the tenant consents in writing to the taking of the photograph or record at least 48 hours before the time the photograph or record is taken.
3. The landlord, broker or salesperson,
 - i. photographs or records only the area of the unit set out in the notice,
 - ii. takes the photograph or record only for the purpose set out in the notice,
 - iii. uses the photograph or record only for the use set out in the notice,
 - iv. retains the photograph or record no longer than the time set out in the notice, and
 - v. takes the photograph or record at the date and time set out in the notice.

Evidence

(2) A photograph or other visual record taken in contravention of this section is not admissible in evidence against the tenant.

4 Subsection 29 (1) of the Act is amended by adding the following paragraph:

7. An order determining that the landlord, superintendent or agent of the landlord has taken a photograph or other visual record of the rental unit in contravention of subsection 27.1 (1).

5 (1) Subsection 31 (1) of the Act is amended by striking out “paragraphs 2 to 6 of subsection 29 (1)” in the portion before clause (a) and substituting “paragraphs 2 to 7 of subsection 29 (1)”.

(2) Subsection 31 (2) of the Act is amended by striking out “paragraphs 2 to 6 of subsection 29 (1)” in the portion before clause (a) and substituting “paragraphs 2 to 7 of subsection 29 (1)”.

6 (1) Section 234 of the Act is amended by adding the following clause:

(a.1) takes a photograph or other visual record of a rental unit in contravention of subsection 27.1 (1);

(2) Subclause 234 (y) (ii) of the Act is amended by striking out “paragraphs 2 to 6 of subsection 29 (1)” and substituting “paragraphs 2 to 7 of subsection 29 (1)”.

Commencement

7 This Act comes into force one month after the day it receives Royal Assent.

Short title

8 The short title of this Act is the *Residential Tenancies Amendment Act (Tenant Privacy), 2018*.