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Bill 23

An Act to amend the Residential Tenancies Act, 2006 to implement various measures to stabilize rent

Co-sponsors:

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Private Members' Bill

1st Reading October 19, 2021

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill amends the *Residential Tenancies Act, 2006* to do the following:

1. Repeal and replace the rules relating to the landlord's responsibility to maintain a residential complex under section 20 of the Act.
2. Create a mechanism by which tenants may apply to the Landlord and Tenant Board in circumstances in which a landlord has failed to comply with certain orders or a previously mediated settlement.
3. Set out new rules for rent that can be charged by a landlord to a new tenant.
4. Expand the circumstances in which a tenant may apply to the Landlord and Tenant Board for an order determining the maximum amount of rent that the tenant may lawfully be charged.
5. Establish a rent registry to be maintained by the Landlord and Tenant Board and set out rules requiring that landlords file statements with the Board for inclusion in the registry, providing for consequences for failing to file the statement and governing the disclosure of information in the registry.

In addition, statutes governing the provision of legal aid services are amended to require the mandatory provision of legal representation before the Landlord Tenant Board to individuals who are directly affected by an application for a rent increase that is more than the guideline determined under the *Residential Tenancies Act, 2006*.

**An Act to amend the Residential Tenancies Act, 2006
to implement various measures to stabilize rent**

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

1 Subsection 6 (1) of the *Residential Tenancies Act, 2006* is amended by striking out “6, 7 and 8” in the portion before clause (a) and substituting “7 and 8”.

2 Subsection 7 (1) of the Act is amended by striking out “6, 7 and 8” in the portion before paragraph 1 and substituting “7 and 8”.

3 Subsection 8 (1) of the Act is amended by striking out “paragraph 6 of subsection 30 (1) and Part VII do not apply” and substituting “Part VII does not apply”.

4 (1) Subsection 20 (1) of the Act is repealed and the following substituted:

Landlord’s responsibility to repair

(1) Subject to section 34, a landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.

(2) Section 20 of the Act is amended by adding the following subsection:

Same

(3) For greater certainty, a landlord is in breach of subsection (1) if the landlord fails in any way to maintain the residential complex, including the rental units in it, in a good state of repair, fit for habitation and in compliance with health, safety, housing and maintenance standards regardless of any efforts on the part of the landlord to maintain the residential complex.

5 Paragraph 6 of subsection 30 (1) of the Act is repealed.

6 The Act is amended by adding the following section:

Application based on mediated settlement, prior order

31.1 (1) If a landlord has failed to complete specified repairs or replacements or other work within a period of time specified in a settlement or prior order a tenant may, without notice to the landlord, apply to the Board for an order under this section.

Same

(2) The tenant shall include with the application a copy of the settlement or prior order and an affidavit setting out the work that has not been completed.

Order for payment

(3) If the Board finds that the landlord has failed to comply with the settlement or prior order, the Board may make one or more of the following orders:

1. Order the landlord to pay to the Board an administrative fine not exceeding \$1,000 per day until the landlord satisfies the Board that the landlord has complied with the order or settlement.
2. Order an abatement of rent until the landlord satisfies the Board that the landlord has complied with the order or settlement.
3. Order an abatement of rent in the amount of the reasonable costs that the tenant will incur in completing the repairs or replacements or other work as set out in the order or settlement.

Amendment to settlement, order

(4) In an order under subsection (3), the Board may amend the settlement or prior order if it considers it appropriate to do so.

Time limitation

(5) No application may be made under subsection (1) in respect of a work order made under section 225 until the time limit for applying for a review of the work order under section 226 has elapsed and the landlord has not applied for a review or, if the landlord has applied for a review, the Board has made an order under subsection 226 (2).

Definition

(6) In this section,

“prior order” means either an order of the Board made under paragraph 4 of subsection 30 (1) or a work order made under section 225; (“ordonnance antérieure”)

“settlement” means a settlement mediated under section 194. (“règlement”)

7 (1) Subsection 37 (7) of the Act is amended by adding “and” at the end of clause (a), by striking out “and” at the end of clause (b) and by striking out clause (c).

(2) Subsection 37 (9) of the Act is amended by striking out “clauses 7 (a), (b) and (c)” and substituting “clauses 7 (a) and (b)”.

8 Section 113 of the Act is repealed and the following substituted:

Lawful rent for new tenant

113 Subject to section 111, the lawful rent for the first rental period for a new tenant under a new tenancy agreement is,

- (a) any amount that is equal to or less than the last lawful rent charged or that ought to have been charged to the previous tenant if the rental unit was previously rented in the last 12 months;
- (b) with respect to a rental unit that has not been rented in the last 12 months, an amount that is equal to or less than the sum of,
 - (i) the last lawful rent charged or that ought to have been charged to the previous tenant,
 - (ii) all increases to the rent that the landlord would have been permitted to make under this Act if the rental unit had been occupied, and
 - (iii) all decreases to the rent that the landlord would have been required to make under this Act if the rental unit had been occupied; or
- (c) the rent first charged to the tenant if the rental unit was not previously rented.

9 Section 114 of the Act is amended by striking out “6, 7 or 8” wherever it appears and substituting in each case “7 or 8”.

10 Subsection 115 (1) of the Act is repealed and the following substituted:

Application by tenant

(1) A tenant, other than a new tenant who occupies a rental unit described in clause 113 (c), may apply to the Board for an order determining the maximum amount of rent that the tenant may lawfully be charged.

Same

(1.1) If at the time of the application an order made under paragraph 7 or 8 of subsection 30 (1) prohibits the landlord from giving a notice of a rent increase to the tenant or taking any rent increase for which notice has been given with respect to the tenant’s rental unit, the Board’s order will set out the amount of rent that the tenant may lawfully be charged,

- (a) until the prohibition in the order ends; and
- (b) after the prohibition in the order ends.

Same

(1.2) If the Board determines that the landlord has charged the tenant a rent that exceeds the maximum lawful rent, the Board shall order that the landlord rebate to the tenant any rent paid by the tenant in excess of the maximum amount of rent that the tenant may lawfully be charged.

11 Section 117 of the Act is repealed and the following substituted:

Compliance by landlord, no notice required

117 (1) Despite section 116, but subject to subsections (2) and (3) of this section, if an order was issued under paragraph 8 of subsection 30 (1), no notice of rent increase is required for the landlord to take a rent increase that the landlord would have been entitled to take in the absence of the order.

Limitation

- (2) Subsection (1) applies only where the landlord,
- (a) has completed the items in work orders for which the compliance period has expired and which were found by the Board to be related to a serious breach of a health, safety, housing or maintenance standard; and
 - (b) has completed the specified repairs or replacements or other work ordered under paragraph 4 of subsection 30 (1) found by the Board to be related to a serious breach of the landlord's obligations under subsection 20 (1) or section 161.

Effective date

- (3) The authority under subsection (1) to take an increase or charge an amount without a notice of rent increase is effective on the first day of the rental period following the date that the landlord completed,
- (a) the items in work orders for which the compliance period has expired and which were found by the Board to be related to a serious breach of a health, safety, housing or maintenance standard; and
 - (b) the specified repairs or replacements or other work ordered under paragraph 4 of subsection 30 (1) found by the Board to be related to a serious breach of the landlord's obligations under subsection 20 (1) or section 161.

Date of annual increase

- (4) In determining the effective date of the next lawful rent increase under section 119, an increase taken under subsection (1) shall be deemed to have been taken at the time the landlord would have been entitled to take it if the order under paragraph 8 of subsection 30 (1) had not been issued.

12 Section 120 of the Act is amended by adding the following subsection:**Exception**

- (1.1) Despite subsection (1), a landlord who has not filed a statement in respect of a rental unit in accordance with section 182.3.2 may not increase the rent in respect of that unit until the statement is filed.

13 Subsection 123 (2) of the Act is amended by striking out “and despite any order under paragraph 6 of subsection 30 (1)” at the end.**14 The Act is amended by adding the following Part:**

**PART XI.1
RENT REGISTRY**

Rent registry

182.3.1 (1) The Board shall establish and maintain a rent registry for all rental units to which this Act applies and shall make the information available in accordance with section 182.3.3.

Content of registry

- (2) The Board shall include in the registry any information contained in a statement or notice filed with the Board under this Part and any order made by the Board under paragraph 7 or 8 of subsection 30 (1) or subsection 126 (10).

Updates to registry

- (3) The Board shall take reasonable steps to ensure that the information contained in the registry is accurate and may correct or update any information contained in the registry.

Landlord to file statement

182.3.2 (1) Every landlord of a rental unit to which this Act applies shall file with the Board a statement in a form approved by the Board within 30 days after entering into a lease respecting the rental unit.

Content of statement

- (2) The statement shall set out the following information:
1. The landlord's name and address.
 2. If the landlord is not ordinarily resident in Ontario, the name and address of the landlord's representative or agent in Ontario.
 3. The municipal address of the rental unit.
 4. The rent charged to the tenant as of the date of filing, including whether the rent amount includes rent attributable to services described under subsection 123 (1) or utilities and the amounts attributable to each.
 5. Any other prescribed information.

Updates respecting rent

(3) Every landlord of a rental unit in respect of which a statement has been filed under this section shall, within 30 days after a change to the rent charged to the tenant takes effect, file with the Board a notice specifying the change to the rent charged and its effective date.

Copy to tenant

(4) The landlord shall also provide a copy of any statement or notice filed with the Board under this section to the tenant.

Tenant application

(5) The tenant may apply to the Board, on notice to the landlord, for an order determining the accuracy of the information in the statement or notice with respect to the tenant's rental unit.

Board may make order

(6) If the Board determines that the information in the statement or notice is not accurate, the Board may correct the information or order that the landlord file another statement or notice, as the case may be.

Time limitation

(7) No application may be made under subsection (5) more than 60 days after the tenant has received the copy of the statement or notice.

Transition

(8) If, on the day section 14 of the *Rent Stabilization Act, 2021* comes into force, a rental unit to which this Act applies is rented, the landlord shall file with the Board a statement referred to in subsection (1) within 30 days after that day.

Disclosure of information

182.3.3 (1) The Board shall disclose any information contained in the registry about a particular rental unit to any of the following individuals who request it:

1. The landlord or an individual authorized by the landlord.
2. The tenant, an individual who ceased to be a tenant of the rental unit within 12 months prior to the request or an individual authorized by the tenant or former tenant.
3. A prospective tenant who has applied to the landlord to occupy the rental unit.

Same

(2) The Board shall take reasonable steps to verify that an individual who requests information in respect of a particular rental unit is a person described in subsection (1).

Information respecting rent

(3) The Board shall make the following information contained in the registry available to the public in accordance with subsection (4):

1. The municipal address of each rental unit contained in the registry.
2. The rents charged in respect of each rental unit contained in the registry, along with the effective date of any change to the rent.

Same

(4) The Board shall make the information referred to in subsection (3) available to the public by,

- (a) publishing it on a website maintained by the Board; and
- (b) providing it to members of the public upon request.

Disclosure to tax authorities

(5) The Board may disclose any information contained in the registry to a ministry, department or agency of the Government of Canada or Ontario that administers or enforces the *Income Tax Act*, the *Taxation Act, 2007* or the *Income Tax Act (Canada)*.

15 Subsection 196 (1) of the Act is repealed and the following substituted:**Board may refuse to proceed if money owing, statement not filed**

(1) Upon receiving information that an applicant owes money to the Board as a result of having failed to pay any fine, fee or costs or has not filed a statement in accordance with subsection 182.3.2 (1),

- (a) if the information is received on or before the day the applicant submits an application, an employee in the Board shall, in such circumstances as may be specified in the Rules, refuse to allow the application to be filed;

- (b) if the information is received after the application has been filed but before a hearing is held, the Board shall stay the proceeding until the fee, fine or costs have been paid or the statement has been filed, as the case may be, and may discontinue the application in such circumstances as may be specified in the Rules; or
- (c) if the information is received after a hearing with respect to the application has begun, the Board shall not issue an order until the fine, fee or costs have been paid or the statement has been filed, as the case may be, and may discontinue the application in such circumstances as may be specified in the Rules.

16 Clause 227 (a) of the Act is amended by striking out “monitor” and substituting “ensure”.

17 Section 233 of the Act is amended by adding the following clause:

(g.1) provides false information in a statement filed with the Board under subsection 182.3.2 (1);

18 (1) Clause 234 (k) of the Act is repealed.

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

(r.1) fails to file a statement with the Board under subsection 182.3.2 (1);

19 (1) Paragraphs 12, 29 and 30 of subsection 241 (1) of the Act are repealed.

(2) Subsection 241 (1) of the Act is amended by adding the following paragraph:

61.2 governing the rent registry established under Part XI.1.

Legal Aid Services Act, 1998

20 Section 13 of the *Legal Aid Services Act, 1998* is amended by adding the following subsections:

Legal representation before the LTB

(1.1) The Corporation shall provide legal aid services in the form of legal representation before the Landlord and Tenant Board to tenants who request such legal representation and who are directly affected by an application to the Board for an order permitting the rent charged to be increased by more than the guideline determined under section 120 of the *Residential Tenancies Act, 2006*.

Exception

(1.2) The eligibility criteria set out in section 16 do not apply with respect to the provision of legal aid services under subsection (1.1) and the Corporation may not require an individual to contribute towards the costs for the legal aid services under section 40.

Legal Aid Services Act, 2020

21 The *Legal Aid Services Act, 2020* is amended by adding the following section:

Legal representation before the LTB

4.1 (1) The Corporation shall provide legal aid services in the form of legal representation before the Landlord and Tenant Board to tenants who request such legal representation and who are directly affected by an application to the Board for an order permitting the rent charged to be increased by more than the guideline determined under section 120 of the *Residential Tenancies Act, 2006*.

Same

(2) The conditions of eligibility to receive legal aid services referred to in section 7 do not apply with respect to the provision of legal aid services under subsection (1) and the Corporation may not require an individual to contribute towards the costs of providing the legal aid services under section 9.

Commencement

22 (1) Subject to subsection (2), this Act comes into force six months after the day it receives Royal Assent.

(2) Section 21 comes into force on the later of the day section 3 of Schedule 15 to the *Smarter and Stronger Justice Act, 2020* comes into force and the day this Act receives Royal Assent.

Short title

23 The short title of this Act is the *Rent Stabilization Act, 2021*.