



CAMBRIDGE
PROPERTY & CASUALTY

**SENIORS HAVE THE ABSOLUTE RIGHT TO TERMINATE EXISTING
LEASES REGARDLESS OF THE TERM UNDER CERTAIN CONDITIONS**

In 1995, the Michigan Legislature enacted a statutory amendment to the Landlord and Tenant Relationships Act which allows senior tenants to break an existing lease agreement without being penalized. This right, however, is subject to certain conditions also set forth in the Act.

Under MCL §554.601a, a tenant who has occupied a rental unit for more than thirteen (13) months is eligible to terminate his or her lease without penalty if:

- (a) The tenant becomes **eligible to take possession of a subsidies rental unit in senior housing** during the lease term **AND** provides the landlord with written **proof of that eligibility**; or
- (b) The tenant becomes **incapable of living independently** during the lease term, as **certified by a physician in a notarized statement**.

If the conditions of subsection (a) or (b) are met, the tenant must give the landlord a 60-day written notice before termination under this section is effective.

The definition of “senior citizen housing” includes housing for individuals 62 years of age or older that is subsidized in whole or in part under any local, state or federal program. The notion of what is included in this definition is very broad. For example, upon passing of the amendment, it was discussed that a tax exempt,

non-profit organization which builds and maintains senior citizen housing would be considered “federally subsidized” by virtue of the tax exempt status.

Accordingly, a tenant eligible to terminate a lease under subsection (a) must be 62 years of age or older. Conversely, there is not a corollary limitation on lease terminations under subsection (b) since the definition of tenant merely refers to a person who occupies a rental unit for residential purposes with the landlord’s consent and for agreed upon consideration. This could potentially raise a big issue for landlords given the fact that the statute does not clarify the definition of “living independently,” nor does it specify how long such a condition must have lasted, or must likely last. Further, the statute does not specify whether a termination under subsection (b) may be contested even where a “notarized statement” from a physician has been provided.

It is also important to note that there is no requirement that a senior tenant give notice to the landlord of placement upon a “senior citizen housing” waiting list, whether the placement upon the list occurred prior to or during the lease term. This means that landlords have been statutorily designated to assume the risk of losing senior tenants, despite the length of the term that was negotiated.

Additional information regarding the Landlord and Tenant Relationship Act can be found at www.legislature.mi.gov.