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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **859**

02/25/2013 Authored by Simon, Allen, Lesch, Paymar, Hornstein and others

The bill was read for the first time and referred to the Committee on Housing Finance and Policy

1.1 A bill for an act
1.2 relating to housing; landlord and tenant; creating additional remedies for victims
1.3 of violence; amending Minnesota Statutes 2012, sections 484.014, by adding a
1.4 subdivision; 504B.001, by adding subdivisions; 504B.165; 504B.178, subdivision
1.5 7; 504B.206, subdivisions 1, 3, by adding a subdivision; 504B.241, by adding
1.6 a subdivision; 504B.285, subdivision 1; 504B.291, subdivision 1; 504B.321,
1.7 subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 504B.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2012, section 484.014, is amended by adding a
1.10 subdivision to read:

1.11 Subd. 4. **Violence.** The court shall order the expungement of an eviction case
1.12 commenced under section 504B.285, subdivision 1, or 504B.291, subdivision 1, if the
1.13 court finds that the defendant is a victim, as defined in section 504B.001, subdivision 13a,
1.14 and that the breach of lease or nonpayment of rent resulted from an incident of any form
1.15 of violence listed in section 504B.001, subdivision 13a.

1.16 Sec. 2. Minnesota Statutes 2012, section 504B.001, is amended by adding a
1.17 subdivision to read:

1.18 Subd. 10a. **Personally identifying information.** "Personally identifying
1.19 information" means information about an individual that could reveal the location of a
1.20 victim, including, but not limited to:

- 1.21 (1) first or last name;
1.22 (2) home or other physical address, including a post office box;
1.23 (3) telephone or facsimile number;
1.24 (4) e-mail or Internet protocol address;

- 2.1 (5) Social Security number;
 2.2 (6) date of birth;
 2.3 (7) race or ethnicity;
 2.4 (8) religious affiliation; or
 2.5 (9) any other information that identifies the individual as a victim.

2.6 Sec. 3. Minnesota Statutes 2012, section 504B.001, is amended by adding a
 2.7 subdivision to read:

2.8 Subd. 10b. **Qualifying document.** "Qualifying document" means a document
 2.9 stating that the tenant or the tenant's family or household member is a victim and naming
 2.10 the perpetrator, if known, which is signed by a court official, law enforcement official,
 2.11 licensed health care professional, clergy member, or victim's advocate or service provider.

2.12 Sec. 4. Minnesota Statutes 2012, section 504B.001, is amended by adding a
 2.13 subdivision to read:

2.14 Subd. 13a. **Victim.** "Victim" means a person or the person's family or household
 2.15 member who has been subjected by another, regardless of the relationship between the
 2.16 perpetrator of violence and the victim of violence, to:

- 2.17 (1) physical harm, bodily injury, or assault;
 2.18 (2) the infliction of fear of imminent physical harm, bodily injury, or assault;
 2.19 (3) terroristic threats, within the meaning of section 609.713, subdivision 1;
 2.20 (4) interference with an emergency call within the meaning of section 609.78,
 2.21 subdivision 2;
 2.22 (5) criminal sexual conduct, within the meaning of section 609.342, 609.343,
 2.23 609.344, 609.345, or 609.3451; or
 2.24 (6) stalking, as defined in section 609.749, subdivision 1.

2.25 Sec. 5. Minnesota Statutes 2012, section 504B.165, is amended to read:

2.26 **504B.165 UNLAWFUL DESTRUCTION; DAMAGES.**

2.27 (a) An action may be brought for willful and malicious destruction of leased
 2.28 residential rental property. The prevailing party may recover actual damages, costs, and
 2.29 reasonable attorney fees, as well as other equitable relief as determined by the court.

2.30 Damage to residential leased property resulting from an incident of violence is not willful
 2.31 and malicious destruction by the victim, as defined in section 504B.001, subdivision 13a.

2.32 (b) The remedies provided in this section are in addition to and shall not limit other
 2.33 rights or remedies available to landlords and tenants. Any provision, whether oral or

3.1 written, of any lease or other agreement, whereby any provision of this section is waived
3.2 by a tenant, is contrary to public policy and void.

3.3 Sec. 6. Minnesota Statutes 2012, section 504B.178, subdivision 7, is amended to read:

3.4 Subd. 7. **Bad faith retention.** The bad faith retention by a landlord of a deposit,
3.5 the interest thereon, or any portion thereof, in violation of this section shall subject
3.6 the landlord to punitive damages not to exceed \$500 for each deposit in addition to
3.7 the damages provided in subdivision 4. If the landlord has failed to comply with the
3.8 provisions of subdivision 3 or 5, retention of a deposit shall be presumed to be in bad
3.9 faith unless the landlord returns the deposit within two weeks after the commencement
3.10 of any action for the recovery of the deposit. The retention of a landlord of any portion
3.11 of a deposit of a victim for damage caused as a result of an incident of violence against
3.12 the victim is presumed to be in bad faith.

3.13 Sec. 7. Minnesota Statutes 2012, section 504B.206, subdivision 1, is amended to read:

3.14 Subdivision 1. **Right to terminate; procedure.** (a) A tenant to a residential lease
3.15 who is a victim of ~~domestic abuse and who~~ fears imminent ~~domestic abuse against the~~
3.16 ~~tenant or the tenant's minor children~~ violence if the ~~tenant or the tenant's minor children~~
3.17 ~~remain~~ victim remains in the leased premises may terminate a lease agreement without
3.18 penalty or liability as provided in this section. The tenant must provide advance written
3.19 notice to the landlord stating that:

3.20 (1) the ~~tenant~~ victim fears imminent ~~domestic abuse~~ violence from a person named
3.21 in an order for protection or no contact order;

3.22 (2) the tenant needs to terminate the tenancy; and

3.23 (3) the specific date the tenancy will terminate.

3.24 (b) The written notice must be delivered before the termination of the tenancy by
3.25 mail, fax, or in person, and be accompanied by the order for protection or no contact
3.26 order, or qualifying document.

3.27 (c) For purposes of this section, an order for protection means an order issued under
3.28 chapter 518B. A no contact order means a no contact order currently in effect, issued
3.29 under section 629.75 or chapter 609.

3.30 Sec. 8. Minnesota Statutes 2012, section 504B.206, subdivision 3, is amended to read:

3.31 Subd. 3. **Liability for rent; termination of tenancy.** (a) A tenant terminating a
3.32 lease under subdivision 1 is responsible for the rent payment for the full month in which
3.33 the tenancy terminates ~~and an additional amount equal to one month's rent.~~ The tenant

4.1 forfeits all claims for the return of the security deposit under section 504B.178 and is
 4.2 relieved of any other contractual obligation for payment of rent or any other charges for
 4.3 the remaining term of the lease, except as provided in this section.

4.4 (b) This section does not affect a tenant's liability for delinquent, unpaid rent or
 4.5 other amounts owed to the landlord before the lease was terminated by the tenant under
 4.6 this section.

4.7 (c) The tenancy terminates, including the right of possession of the premises, on the
 4.8 termination date stated in the notice under subdivision 1. ~~The amount equal to one month's~~
 4.9 ~~rent must be paid on or before the termination of the tenancy for the tenant to be relieved of~~
 4.10 ~~the contractual obligations for the remaining term of the lease as provided in this section.~~

4.11 (d) For purposes of this section, the provisions of section 504B.178 are triggered
 4.12 as follows:

4.13 (1) if the only tenant is the tenant who is the victim of domestic abuse and the
 4.14 tenant's minor children, if any, upon the first day of the month following the later of:

4.15 (i) the date the tenant vacates the premises; or

4.16 (ii) the termination of the tenancy indicated in the written notice under subdivision
 4.17 1; or

4.18 (2) if there are additional tenants bound by the lease, upon the expiration of the lease.

4.19 Sec. 9. Minnesota Statutes 2012, section 504B.206, is amended by adding a
 4.20 subdivision to read:

4.21 Subd. 7. **Conflict with other law.** If a federal statute, regulation, or handbook
 4.22 permitting termination of a residential tenancy subsidized under a federal program
 4.23 conflicts with any provision of this section, then the landlord shall comply with the federal
 4.24 statute, regulation, or handbook.

4.25 Sec. 10. Minnesota Statutes 2012, section 504B.241, is amended by adding a
 4.26 subdivision to read:

4.27 Subd. 6. **Disclosure of information related to an incidence of violence.**
 4.28 Notwithstanding any other provision of law, a residential tenant screening service may
 4.29 not disclose to any person, other than the tenant who is a victim, any rental history that
 4.30 contains personally identifying information when the rental history is related in any way to
 4.31 one or more incidents of any form of violence listed in section 504B.001, subdivision 13a.

4.32 Sec. 11. [504B.243] **USE OF INFORMATION RELATED TO VICTIMS OF**
 4.33 **VIOLENCE.**

5.1 Information in a residential tenant file related to incidents of violence in which the
 5.2 applicant or the applicant's family or household member, or tenant or the tenant's family or
 5.3 household member, is the victim as defined in section 504B.001, subdivision 13a, may
 5.4 not be used as a basis for denying an application, continued tenancy, or a renewal of a
 5.5 lease to an applicant or tenant. "Family or household member" has the meaning given in
 5.6 section 518B.01, subdivision 2.

5.7 Sec. 12. Minnesota Statutes 2012, section 504B.285, subdivision 1, is amended to read:

5.8 Subdivision 1. **Grounds.** (a) The person entitled to the premises may recover
 5.9 possession by eviction when:

5.10 (1) any person holds over real property:

5.11 (i) after a sale of the property on an execution or judgment; or

5.12 (ii) after the expiration of the time for redemption on foreclosure of a mortgage, or
 5.13 after termination of contract to convey the property;

5.14 (2) any person holds over real property after termination of the time for which it is
 5.15 demised or leased to that person or to the persons under whom that person holds possession,
 5.16 contrary to the conditions or covenants of the lease or agreement under which that person
 5.17 holds, or after any rent becomes due according to the terms of such lease or agreement; or

5.18 (3) any tenant at will holds over after the termination of the tenancy by notice to quit.

5.19 (b) A landlord may not commence an action for eviction against a victim for a
 5.20 breach of lease when the breach results from an incident of violence against the victim.

5.21 (c) A landlord may commence an action for eviction against a lawful tenant who
 5.22 has engaged in violence against a cotenant who is a victim and continue the tenancy
 5.23 of the victim.

5.24 Sec. 13. Minnesota Statutes 2012, section 504B.291, subdivision 1, is amended to read:

5.25 Subdivision 1. **Action to recover.** (a) A landlord may bring an eviction action for
 5.26 nonpayment of rent irrespective of whether the lease contains a right of reentry clause.
 5.27 Such an eviction action is equivalent to a demand for the rent. There is a rebuttable
 5.28 presumption that the rent has been paid if the tenant produces a copy or copies of one
 5.29 or more money orders or produces one or more original receipt stubs evidencing the
 5.30 purchase of a money order, if the documents: (i) total the amount of the rent; (ii) include
 5.31 a date or dates approximately corresponding with the date rent was due; and (iii) in the
 5.32 case of copies of money orders, are made payable to the landlord. This presumption is
 5.33 rebutted if the landlord produces a business record that shows that the tenant has not paid
 5.34 the rent. The landlord is not precluded from introducing other evidence that rebuts this

6.1 presumption. In such an action, unless the landlord has also sought to evict the tenant by
6.2 alleging a material violation of the lease under section 504B.285, subdivision 5, the tenant
6.3 may, at any time before possession has been delivered, redeem the tenancy and be restored
6.4 to possession by paying to the landlord or bringing to court the amount of the rent that is
6.5 in arrears, with interest, costs of the action, and an attorney's fee not to exceed \$5, and by
6.6 performing any other covenants of the lease.

6.7 (b) If the tenant has paid to the landlord or brought into court the amount of rent in
6.8 arrears but is unable to pay the interest, costs of the action, and attorney's fees required
6.9 by paragraph (a), the court may permit the tenant to pay these amounts into court and be
6.10 restored to possession within the same period of time, if any, for which the court stays the
6.11 issuance of the order to vacate under section 504B.345.

6.12 (c) Prior to or after commencement of an action to recover possession for nonpayment
6.13 of rent, the parties may agree only in writing that partial payment of rent in arrears
6.14 which is accepted by the landlord prior to issuance of the order granting restitution of the
6.15 premises pursuant to section 504B.345 may be applied to the balance due and does not
6.16 waive the landlord's action to recover possession of the premises for nonpayment of rent.

6.17 (d) Rental payments under this subdivision must first be applied to rent claimed as
6.18 due in the complaint from prior rental periods before applying any payment toward rent
6.19 claimed in the complaint for the current rental period, unless the court finds that under the
6.20 circumstances the claim for rent from prior rental periods has been waived.

6.21 (e) In an eviction action for nonpayment of rent, the court shall enter an order
6.22 providing for repayment of the unpaid rent within 90 days or repayment on terms agreed
6.23 to by the parties, whichever is longer, if:

6.24 (1) the court finds rent has not been paid;

6.25 (2) the tenant is the victim; and

6.26 (3) nonpayment is the result of the incident of violence against the victim.

6.27 If the agreement is breached, judgment for the remaining balance shall be entered.

6.28 Sec. 14. Minnesota Statutes 2012, section 504B.321, subdivision 2, is amended to read:

6.29 Subd. 2. **Expedited procedure.** (a) In an eviction action brought under section
6.30 504B.171, or on the basis that a tenant has committed any act against other tenants that is
6.31 listed in section 504B.001, subdivision 13a, or on the basis that the tenant is causing a
6.32 nuisance or other illegal behavior that seriously endangers the safety of other residents, their
6.33 property, or the landlord's property, the person filing the complaint shall file an affidavit
6.34 stating specific facts and instances in support of why an expedited hearing is required.

7.1 (b) The complaint and affidavit shall be reviewed by a referee or judge and scheduled
7.2 for an expedited hearing only if sufficient supporting facts are stated and they meet the
7.3 requirements of this paragraph.

7.4 (c) The appearance in an expedited hearing shall be not less than five days nor more
7.5 than seven days from the date the summons is issued. The summons, in an expedited
7.6 hearing, shall be served upon the tenant within 24 hours of issuance unless the court
7.7 orders otherwise for good cause shown.

7.8 (d) If the court determines that the person seeking an expedited hearing did so
7.9 without sufficient basis under the requirements of this subdivision, the court shall impose
7.10 a civil penalty of up to \$500 for abuse of the expedited hearing process.