

Rental Fairness Act, 2017

EXPLANATORY NOTE

The Bill amends the *Residential Tenancies Act, 2006*. The principal amendments to the Act are described below.

New exemption from Act under section 5.1

Section 5.1 is added to the Act to provide a new exemption. Under subsection 5.1 (1), living accommodation is exempt from the Act if it is provided to a person as part of a program that meets specified requirements and if the occupant and the provider of the living accommodation have entered into an agreement that meets specified requirements. The program must consist of the provision of living accommodation and accompanying services which must include rehabilitative or therapeutic services or services intended to support employment or life skills development.

Rent control rules

The Bill repeals subsection 6 (2) of the Act. Currently, subsection 6 (2) exempts certain rental units from various rules relating to rent (including rules relating to the rent increase guideline). There are three categories of rental units that are exempt: a unit that was not occupied for any purpose before June 17, 1998; a unit that has not been previously rented since July 29, 1975; and a unit in a building, mobile home park or land lease community no part of which was occupied for residential purposes before November 1, 1991.

A new section 120.1 is enacted. It sets out transitional rules relating to notices of rent increases that are given by landlords before the day subsection 6 (2) of the Act is repealed in respect of rental units that, as of that day, are no longer exempt from the rent control rules.

Prescribed form of tenancy agreement

New section 12.1 provides that every tenancy agreement entered into in respect of a tenancy of a prescribed class on or after the date prescribed for that class shall be in the form prescribed and comply with the requirements prescribed for that class. Related regulation-making powers are given to the Minister of Housing under new section 241.1.

Subsections 12.1 (5) to (10) set out rules that apply when the agreement is not in the prescribed form or does not comply with the prescribed requirements. The tenant may demand that the landlord provide for the tenant's signature a proposed tenancy agreement that is in the prescribed form and complies with the prescribed requirements. If the landlord does not comply within 21 days of the demand, the tenant may withhold rent payments that become due after the expiry of that period, subject to the following: in total, the tenant may not withhold more than an amount equal to one month's rent and may no longer withhold rent payments once the landlord complies with the demand. The landlord may require the tenant to pay rent payments withheld,

provided that the landlord complies with the demand no later than 30 days after the first rent payment was withheld.

Section 47.0.1 is added to allow a tenant to terminate a yearly tenancy or a tenancy for a fixed term before the end of the year or term by giving at least 60 days notice effective on the last day of a rental period. A tenant may give the notice if the tenant has made a demand for a proposed tenancy agreement and the landlord does not comply within 21 days or if the tenant does not enter into the proposed agreement and gives the notice no later than 30 days after it was provided by the landlord.

Notice of termination by landlord under section 48

Currently, subsection 48 (1) allows a landlord to give a termination notice if the landlord requires possession of the rental unit for the purpose of residential occupation by the landlord, a member of the landlord's family or other specified persons. Under subsection 48 (1), as amended, the landlord must require possession for the purpose of residential occupation for at least one year. Under new section 48.1, a landlord who gives a termination notice under section 48 is required to compensate the tenant in an amount equal to one month's rent or to offer the tenant another unit acceptable to the tenant.

Compensation under section 48.1, 52, 54 or 55

New section 73.1 provides that when the Landlord and Tenant Board refuses to grant an application under section 69 for an order terminating the tenancy and evicting the tenant based on a termination notice under section 48 or 50 (for the purposes of residential occupation, demolition, conversion to non-residential rental use, renovations or repairs), the Board may order that the tenant pay back to the landlord compensation received under section 48.1, 52, 54 or 55 in connection with the notice.

Currently, under subsection 83 (4), the Board shall not issue an eviction order in a proceeding for termination of a tenancy for the purposes of demolition, conversion to non-residential rental use, renovations or repairs until the landlord has compensated the tenant as required under section 52, 54 or 55. Subsection 83 (4) is amended so that it also applies to compensation required under section 48.1.

Currently, under subsection 135 (1), a tenant or former tenant may apply to the Board for an order that the landlord pay to the tenant any money collected or retained in contravention of the Act. New subsection 135 (1.1) provides that a landlord is deemed to have retained money in contravention of the Act if the landlord is required to compensate a tenant under section 48.1, 52, 54 or 55 and fails to do so.

Current clause 233 (f) provides that a person who knowingly recovers possession of a rental unit without complying with the requirements of sections 52, 54 and 55 is guilty of an offence. Clause 233 (f) is amended so that it also applies to recovering possession of a unit without complying with section 48.1.

Termination notice under section 68 and paragraph 11 of subsection 94.2 (1)

Currently, under section 68, a landlord's initial termination notice must have become void as a result of the tenant's compliance with its terms, in order for the landlord to be allowed to give the tenant a subsequent termination notice for a subsequent contravention. Current paragraph 11 of subsection 94.2 (1) provides a similar rule with respect to a non-profit housing co-operative's initial and subsequent notice to terminate a member's occupancy of a member unit. Section 68 is amended and paragraph 11 of subsection 94.2 (1) is re-enacted to require only that 7 days have passed since the initial notice was given.

Stay of eviction order under subsection 74 (13)

Currently, under subsection 74 (13), an order terminating a tenancy and evicting a tenant is stayed when a motion made by the tenant under subsection 74 (11) is received by the Board. Subsection 74 (13) is amended to provide that the order is stayed when the motion is accepted for filing by the Board. Under subsection 74 (11), a tenant may make a motion to set aside an eviction order if, after the order becomes enforceable but before it is executed, the tenant makes the required payment and files the required affidavit. Subsection 74 (11.1) is added to provide that the Board shall refuse to accept the motion for filing, if the tenant has not complied with all the requirements of subsection 74 (11).

Applications based on previous order or settlement

Currently, subsection 78 (3) provides that in an application under subsection 78 (1) for an order terminating the tenancy or evicting the tenant based on a previous order or settlement, the landlord may also request that the Board make an order for payment under subsection 78 (7) if, in the previous application, the landlord had applied for an order for the payment of arrears of rent and the previous order or settlement requires the tenant to pay rent or some or all of the arrears of rent. Subsection 78 (3) is amended to also permit an order for payment if, in the previous application, the landlord had applied for an order for the payment of compensation for the repair or replacement of damaged property and the previous order or settlement requires the tenant to pay such compensation.

Applications for above-guideline rent increase

Currently, under paragraph 1 of subsection 126 (1), a landlord may apply to the Board for an order permitting an above-guideline rent increase for rental units in a residential complex due to an extraordinary increase in the cost for municipal taxes and charges or utilities or both for the residential complex. Paragraph 1 of subsection 126 (1) is re-enacted to no longer allow applications based on an extraordinary increase in the cost for utilities.

Under paragraph 2 of subsection 126 (1), a landlord may apply to the Board for an order permitting an above-guideline rent increase for rental units in a residential complex due to eligible capital expenditures incurred respecting the residential complex or one or more of the rental units in it. Subsection 126 (7), which lists the requirements a capital expenditure must meet to be an eligible capital expenditure, is amended to make the subsection subject to such exceptions as may be provided in the regulations. Related regulation-making powers are added to section 241.

Currently, if subsection 126 (13) applies to a rental unit, the Board is required to either dismiss the application with respect to the unit or provide in an order permitting an above-guideline rent increase that the rent charged for the unit shall not be increased until the Board is satisfied, on a motion made by the landlord, on notice to the tenant, that the previous findings made by the Board under subsection 126 (12), which resulted in the application of subsection 126 (13), have been addressed.

Subsection 126 (12.1) is added to provide that subsection 126 (13) also applies to a rental unit if the Board finds that the landlord has not completed, within the compliance period, items in work orders, or items in orders made under section 21 of the *Technical Standards and Safety Act, 2000* or specified repairs or replacements or other work ordered by the Board, which relate to one or more elevators in the residential complex.

Subsection 126 (3.1) is added to require a landlord to include with an application under section 126 a summary of items in work orders or orders issued under section 21 of the above-noted Act or repairs, replacements or other work ordered by the Board, that are yet to be completed and that relate to one or more elevators in the residential complex, even if the compliance period has not yet expired. New subsection 126 (3.2) sets out the information to be included in the summary.

Additional charges prohibited

Current clause 134 (1) (a) prohibits landlords from collecting, requiring or attempting to require or collect from a tenant or prospective tenant of a rental unit a fee, premium, commission, bonus, penalty, key deposit or other like amount of money in respect of the unit. Clause 134 (1) (a) is amended to also apply with respect to former tenants.

Subsection 134 (1.1) is added to prohibit landlords from collecting, requiring or attempting to require or collect from a former tenant of a rental unit any amount of money purporting to be rent in respect of any period after the tenancy has terminated and the tenant has vacated the unit.

Clause 234 (1) is amended to make it an offence for a person to charge or collect amounts from a former tenant in contravention of section 134.

Transition regulations

New section 241.2 gives the Lieutenant Governor in Council the power to make transition regulations in connection with amendments to the Act made by the Bill.

An Act to amend the Residential Tenancies Act, 2006

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

1. Subsection 4 (1) of the *Residential Tenancies Act, 2006* is amended by striking out “Subject to section 194” at the beginning and substituting “Subject to subsection 12.1 (11) and section 194”.

2. The Act is amended by adding the following section:

Other exemption from Act

5.1 (1) This Act does not apply with respect to living accommodation provided to a person as part of a program described in subsection (2) if the person and the provider of the living accommodation have entered into a written agreement that complies with subsection (3).

Program requirements

(2) A program referred to in subsection (1) is a program that meets all of the following requirements:

1. The program consists of the provision of living accommodation and accompanying services where,
 - i. the living accommodation is intended to be provided for no more than a four-year period, and
 - ii. the accompanying services include one or more of the following services, regardless of where and by whom the services are provided:
 - A. rehabilitative services,
 - B. therapeutic services,
 - C. services intended to support employment, or

- D. services intended to support life skills development.
2. The program is intended to support the occupant of the living accommodation in subsequently obtaining and maintaining more permanent living accommodation.
 3. All or part of the program is,
 - i. provided by, or funded under an agreement with,
 - A. the Crown in right of Canada or in right of Ontario,
 - B. an agency of the Crown in right of Canada or in right of Ontario,
 - C. a municipality, or
 - D. a service manager as defined in the *Housing Services Act, 2011*, or
 - ii. provided or funded by a registered charity within the meaning of the *Income Tax Act (Canada)*.

Agreement between the provider and the occupant of the living accommodation

(3) The agreement between the provider of the living accommodation and an occupant of the living accommodation must meet all of the following requirements:

1. The agreement must state that the provider of the living accommodation intends that the living accommodation be exempt from this Act and must also state that the occupant may apply to the Board under section 9 of this Act for a determination of whether this Act applies with respect to the living accommodation.
2. The agreement must set out the following:
 - i. the legal name and address of the provider of the living accommodation,
 - ii. the maximum period of the occupant's occupancy of the living accommodation,

- iii. the circumstances under which and the process by which the occupant's occupancy of the living accommodation may be terminated by the provider of the living accommodation,
 - iv. the occupant's rights and responsibilities in respect of the occupant's occupancy of the living accommodation,
 - v. the rules that apply to the occupant's occupancy of the living accommodation,
 - vi. the amount of any consideration required to be paid by the occupant for the right to occupy the living accommodation, and
 - vii. the amount of any other charges to be paid by the occupant in conjunction with the living accommodation.
3. The agreement must set out a process to address disputes between the occupant and the provider of the living accommodation which must,
 - i. include a reasonable method by which either party may initiate the process,
 - ii. provide for the involvement of an individual not otherwise involved in the dispute, to assist the parties in resolving the dispute, and
 - iii. meet such other requirements as may be prescribed.
4. Unless the information is set out in a separate agreement under subsection (4), the agreement must set out the following information in respect of the program under which the living accommodation is provided to the occupant:
 - i. the occupant's rights and responsibilities in respect of the occupant's participation in the program, other than the rights and responsibilities described in subparagraph 2 iv,
 - ii. the rules that apply to the occupant's participation in the program, other than the rules described in subparagraph 2 v,
 - iii. the amount of any charges to be paid by the occupant in conjunction with the program, other than the charges referred to in subparagraphs 2 vi and vii,

- iv. the policy of the provider of the living accommodation or the administrator of the program, as applicable, with respect to securing alternate living accommodation for an occupant whose participation in the program or whose occupancy of the living accommodation is terminated, and
- v. the policy of the provider of the living accommodation or the administrator of the program, as applicable, with respect to readmission into the program.

5. The agreement must meet such other requirements as may be prescribed.

Requirements in subpars. 4 i to v of subs. (3)

(4) Where the provider of the living accommodation and the administrator of the program under which the living accommodation is provided to the occupant are not the same person or entity, any information required by subparagraph 4 i, ii, iii, iv or v of subsection (3) may be set out in the agreement in respect of the occupant's participation in the program entered into between the occupant and the administrator of the program, if the agreement,

- (a) sets out the legal name and address of the administrator of the program; and
- (b) meets such other requirements as may be prescribed.

No limitation

(5) Nothing in this section limits the availability of other exemptions under this Act.

Existing tenancy

(6) For greater certainty, nothing in this section exempts living accommodation that is subject to a tenancy to which this Act applies, unless the tenancy has first been terminated in accordance with this Act.

3. (1) Subsection 6 (1) of the Act is amended by striking out "sections 51, 52" in the portion before clause (a) and substituting "sections 48.1, 51, 52".

(2) Subsection 6 (2) of the Act is repealed.

4. Subsection 7 (1) of the Act is amended by striking out "sections 51, 52" in the portion before paragraph 1 and substituting "sections 48.1, 51, 52".

5. The Act is amended by adding the following section:

Tenancy agreement in respect of tenancy of a prescribed class

12.1 (1) Every tenancy agreement that is entered into in respect of a tenancy of a prescribed class on or after the date prescribed for that class of tenancies shall comply with the following requirements:

1. The tenancy agreement shall be in the form prescribed for that class of tenancies.
2. The tenancy agreement shall comply with the requirements prescribed for that class of tenancies.

Time of signature

(2) Every tenancy agreement referred to in subsection (1) shall be signed by the landlord and the tenant on or before the day the tenant is entitled to occupy the rental unit under the tenancy agreement.

Non-application

(3) This section does not apply with respect to a tenancy agreement entered into in respect of a tenancy of a prescribed class referred to in subsection (1), if the tenancy agreement is entered into before the applicable prescribed date referred to in that subsection, and even if the tenancy agreement is renewed or deemed to be renewed under section 38 on or after that date.

Application of subs. (5) to (10)

(4) Subsections (5) to (10) apply with respect to a tenancy agreement referred to in subsection (1) that does not comply with that subsection.

Demand for proposed tenancy agreement that complies with subs. (1)

(5) The tenant of a rental unit who is a party to a tenancy agreement described in subsection (4) may, once during the tenancy, demand in writing that the landlord provide to the tenant, for the tenant's signature, a proposed tenancy agreement that,

- (a) complies with subsection (1);
- (b) is for the occupancy of the same rental unit; and
- (c) is signed by the landlord.

Withholding of rent payments

(6) If at least 21 days have elapsed since the day the tenant made the demand and the landlord has not complied with the demand, the tenant may, subject to subsections (7) and (8), withhold rent payments that become due after the expiry of that 21-day period.

Same

(7) The maximum total amount of rent payments that a tenant may withhold under subsection (6) is an amount equal to one month's rent.

Same

(8) The tenant may not withhold rent payments under subsection (6) on or after the day the landlord complies with the demand.

Requirement to pay withheld rent payments

(9) The landlord may require the tenant to pay to the landlord any rent payment withheld under subsection (6) only if the landlord complies with the tenant's demand for a proposed tenancy agreement no later than 30 days after the date of the first rent payment withheld under that subsection.

Same

(10) The landlord may require the tenant to pay withheld rent payments under subsection (9) even if the tenant does not enter into the proposed tenancy agreement provided to the tenant by the landlord.

Tenancy agreement not void

(11) For greater certainty, a tenancy agreement is not void, voidable or unenforceable solely by reason of not complying with subsection (1) or (2).

Operation of s. 12 not affected

(12) For greater certainty, nothing in this section affects the operation of section 12.

6. The Act is amended by adding the following section:

NOTICE BY TENANT BEFORE END OF YEARLY PERIOD OR FIXED TERM OF TENANCY
REFERRED TO IN SUBS. 12.1 (1)

Notice to terminate before end of period or term, tenancy referred to in subs. 12.1 (1)

47.0.1 (1) Despite subsections 44 (3) and (4) and section 47, a tenant may terminate a tenancy referred to in subsection 12.1 (1) that is a yearly tenancy or a tenancy for a fixed term by giving notice of termination to the landlord in accordance with this section if,

- (a) the tenant has made a demand for a proposed tenancy agreement under subsection 12.1 (5) in respect of the tenancy; and
- (b) either one of the following applies,

- (i) at least 21 days have elapsed since the day the tenant made the demand and the landlord has not complied with the demand, or
- (ii) the landlord has complied with the demand and the tenant has not entered into the proposed tenancy agreement provided to the tenant by the landlord.

Limitation

(2) A tenant may give a notice under subsection (1) no later than 30 days after the day the landlord has provided the proposed tenancy agreement to the tenant.

Period of notice

(3) A notice under subsection (1) to terminate a yearly tenancy or a tenancy for a fixed term shall be given at least 60 days before the date the termination is specified to be effective and that date shall be on the last day of a rental period of the tenancy.

Form of notice

(4) A notice under subsection (1) shall comply with subsection 43 (1).

Application of subs. 44 (5)

(5) Subsection 44 (5) applies with necessary modifications with respect to a notice given under subsection (1).

7. (1) Subsection 48 (1) of the Act is amended by adding "for a period of at least one year" after "residential occupation" in the portion before clause (a).

(2) Section 48 of the Act is amended by adding the following subsection:

Application

(5) This section does not authorize a landlord to give a notice of termination of a tenancy with respect to a rental unit unless,

- (a) the rental unit is owned in whole or in part by an individual; and
- (b) the landlord is an individual.

8. The Act is amended by adding the following section:

Compensation, notice under s. 48

48.1 A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if the landlord gives the tenant a notice of termination of the tenancy under section 48.

9. The Act is amended by adding the following section:

Compensation under ss. 48.1, 52, 54 or 55

55.1 If the landlord is required to compensate a tenant under section 48.1, 52, 54 or 55, the landlord shall compensate the tenant no later than on the termination date specified in the notice of termination of the tenancy given by the landlord under section 48 or 50.

10. Section 57 of the Act is amended by adding the following subsections:

Presumption, notice under s. 48

(5) For the purposes of an application under clause (1) (a), it is presumed, unless the contrary is proven on a balance of probabilities, that a landlord gave a notice of termination under section 48 in bad faith, if at any time during the period described in subsection (6) the landlord,

- (a) advertises the rental unit for a higher rent than was last charged to the former tenant; or
- (b) enters into a tenancy agreement in respect of the rental unit for a higher rent than was last charged to the former tenant.

Same

(6) The period referred to in subsection (5) is the period that,

- (a) begins on the day the landlord gives the notice of termination under section 48; and
- (b) ends one year after the former tenant vacates the rental unit.

Application of subs. (5) and (6)

(7) Subsections (5) and (6) apply with respect to an application under clause (1) (a) if the application is made on or after the day section 10 of the *Rental Fairness Act, 2017* comes into force and is based on a notice of termination given under section 48 on or after that day.

11. The Act is amended by adding the following section:

Former tenant's application, failure to afford tenant right of first refusal

57.1 (1) The Board may make an order described in subsection 57 (3) if, on application by a former tenant of a rental unit, the Board determines that the landlord was

required to afford the former tenant a right of first refusal under section 53 and failed to do so.

Time limitation

(2) No application may be made under subsection (1) more than one year after the former tenant vacated the rental unit.

Transition

(3) An application may be made under subsection (1) regardless of whether the alleged failure to afford a right of first refusal on which it is based occurred before, on or after the day section 11 of the *Rental Fairness Act, 2017* comes into force.

12. (1) Clause 68 (1) (a) of the Act is repealed and the following substituted:

(a) a notice of termination was given to the tenant under section 62, 64 or 67; and

(2) Clause 68 (1) (b) of the Act is amended by striking out “within six months after the notice mentioned in clause (a) was given to the tenant” at the beginning and substituting “more than seven days but less than six months after the notice mentioned in clause (a) was given to the tenant”.

13. Subsection 72 (1) of the Act is repealed and the following substituted:

Landlord or purchaser personally requires premises

(1) The Board shall not make an order terminating a tenancy and evicting the tenant in an application under section 69 based on,

(a) a notice of termination given under section 48 on or after the day section 13 of the *Rental Fairness Act, 2017* comes into force, unless the landlord has filed with the Board an affidavit sworn by the person who personally requires the rental unit certifying that the person in good faith requires the rental unit for his or her own personal use for a period of at least one year; or

(b) a notice of termination under section 49, unless the landlord has filed with the Board an affidavit sworn by the person who personally requires the rental unit certifying that the person in good faith requires the rental unit for his or her own personal use.

Same

(1.1) The Board shall not make an order terminating a tenancy and evicting the tenant in an application under section 69 based on a notice of termination given under section 48 before the day section 13 of the *Rental Fairness Act, 2017* comes into force, unless the landlord has filed with the Board an affidavit sworn by the person who personally

requires the rental unit certifying that the person in good faith requires the rental unit for his or her own personal use.

14. The Act is amended by adding the following section:

Compensation under s. 48.1, 52, 54 or 55

73.1 (1) If the landlord compensated the tenant under section 48.1, 52, 54 or 55, as the case may be, in connection with a notice of termination under section 48 or 50 and the Board refuses to grant an application under section 69 for an order terminating the tenancy and evicting the tenant based on the notice, the Board may order that the tenant pay back the compensation to the landlord.

Transition

(2) The Board may make an order under subsection (1) on an application described in that subsection even if the application was made before the day section 14 of the *Rental Fairness Act, 2017* comes into force.

15. (1) Section 74 of the Act is amended by adding the following subsection:

Refusal to accept motion

(11.1) The Board shall refuse to accept for filing a motion under subsection (11), if the tenant has not complied with all the requirements of that subsection.

(2) Subsection 74 (13) of the Act is amended by striking out “is received by the Board” and substituting “is accepted for filing by the Board”.

(3) Section 74 of the Act is amended by adding the following subsection:

Application of subs. (13)

(13.1) For greater certainty, subsection (13) applies only if the affidavit filed by the tenant in support of the motion under subsection (11) complies with all the requirements of that subsection.

(4) Section 74 of the Act is amended by adding the following subsection:

Transition, motions under subs. (11)

(19) This section, as it reads immediately before the day the *Rental Fairness Act, 2017* receives Royal Assent, continues to apply with respect to motions under subsection (11) that are received by the Board before that day.

16. (1) Subsection 78 (3) of the Act is amended,

- (a) by adding “or compensation for the repair or replacement of damaged property” after “arrears of rent” in paragraph 1; and
- (b) by adding “or compensation for the repair or replacement of damaged property” at the end of paragraph 2.

(2) Paragraph 1 of subsection 78 (4) of the Act is repealed and the following substituted:

- 1. If the settlement or order requires the tenant to pay some or all of the arrears of rent, the amount of any additional arrears of rent arising after the date of the settlement or order.

(3) Subparagraph 4 i of subsection 78 (4) of the Act is repealed and the following substituted:

- i. the amount of compensation for damage payable to the landlord under the terms of the settlement,

(4) Subsection 78 (4) of the Act is amended by adding the following paragraph:

- 6. The amount and date of each payment made under the terms of the settlement or order and what the payment was for.

(5) Paragraph 2 of subsection 78 (7) of the Act is repealed and the following substituted:

- 2. If the settlement or order referred to in paragraph 2 of subsection (3) requires the tenant to pay some or all of the arrears of rent, the amount of arrears of rent that arose after the date of the settlement or order.

(6) Paragraph 5 of subsection 78 (7) of the Act is amended by adding the following subparagraph:

- i.1 the amount of compensation for damage payable under the terms of the settlement that has not been paid,

(7) Section 78 of the Act is amended by adding the following subsection:

Cancellation of previous order

(7.1) If the Board makes an order under subsection (6), the Board may,

- (a) cancel a previous order referred to in paragraph 2 of subsection (3); and

- (b) order the payment of any amount payable under the cancelled order that has not been paid.

(8) Subsection 78 (9) of the Act is amended by striking out “subsection (7)” and substituting “subsection (7) or (7.1)”.

(9) Subsection 78 (10) of the Act is repealed and the following substituted:

Motion stays orders

(10) When a motion under subsection (9) is received by the Board, an order under subsection (6), and any order made under subsection (7) or (7.1), are stayed and shall not be enforced under this Act or as an order of the Superior Court of Justice during the stay.

(10) Subsection 78 (11) of the Act is amended by striking out “subsection (7)” wherever it appears and substituting in each case “subsection (7) or (7.1)”.

(11) Section 78 of the Act is amended by adding the following subsection:

Transition

(13) This section, as it reads immediately before the day subsection 16 (11) of the *Rental Fairness Act, 2017* comes into force, continues to apply if the previous application referred to in paragraph 1 of subsection (1) is made before that day, regardless of whether the resulting settlement or order is mediated or made before, on or after that day.

17. Subsection 83 (4) of the Act is repealed and the following substituted:

No eviction before compensation, residential occupation, demolition, etc.

(4) The Board shall not issue an eviction order in a proceeding regarding termination of a tenancy for the purposes of residential occupation, demolition, conversion to non-residential rental use, renovations or repairs until the landlord has complied with section 48.1, 52, 54 or 55, as the case may be.

18. Paragraph 11 of subsection 94.2 (1) of the Act is repealed and the following substituted:

- 11. A notice of termination was given to the member for a circumstance described in paragraph 6, 8 or 10 and more than seven days but less than six months after the notice was given, an activity takes place, conduct occurs or a situation arises that constitutes the same circumstance under which the previous notice of termination was given.

19. (1) Subclause 94.11 (3) (e) (ii) of the Act is amended by striking out “paragraph 2 and subparagraph 5 i of subsection 78 (7)” and substituting “subparagraph 5 i of subsection 78 (7)”.

(2) Clause 94.11 (3) (f) of the Act is repealed and the following substituted:

(f) subsection 78 (4) shall be read as including the following paragraph:

3.1 If the settlement or order requires the member to pay some or all of the arrears of the regular monthly housing charges, the amount of any additional other housing charges, other than any refundable amounts, arising after the date of the settlement or order.

(3) Subsection 94.11 (3) of the Act is amended by adding the following clause:

(h.1) paragraph 2 of subsection 78 (7) shall be read as follows:

2. If the settlement or order requires the member to pay some or all of the arrears of the regular monthly housing charges, the amount of arrears of the regular monthly housing charges and other housing charges, other than any refundable amounts, that arose after the date of the settlement or order.

(4) Section 94.11 of the Act is amended by adding the following subsection:

Transition

(4) This section, as it reads immediately before the day subsection 19 (4) of the *Rental Fairness Act, 2017* comes into force, continues to apply if the previous application referred to in paragraph 1 of subsection (1) is made before that day, regardless of whether the resulting settlement or order is mediated or made before, on or after that day.

20. Subsection 94.16 (1) of the Act is amended by striking out “74 (2) to (18)” in the portion before clause (a) and substituting “74 (2) to (19)”.

21. The Act is amended by adding the following section:

Application of guideline to previously exempt units

120.1 (1) This section applies to every rental unit that,

- (a) immediately before the exemption repeal date, was exempt from section 120 under subsection 6 (2), as that section read immediately before that date; and
- (b) on and after the exemption repeal date, is not exempt from section 120 under any provision of this Act or under the regulations.

Definitions

(2) In this section,

“exemption repeal date” means the date subsection 3 (2) of the *Rental Fairness Act, 2017* (which repeals subsection 6 (2) of this Act) comes into force; (“date d’abrogation de l’exclusion”)

“previously exempt rental unit” means a rental unit described in subsection (1). (“logement locatif antérieurement exclu”)

Transition rules

(3) One of the following sets of rules applies where the landlord of a previously exempt rental unit has given the tenant notice of a rent increase before the exemption repeal date and the amount of the rent increase provided for under the notice is more than the guideline:

1. If the notice of rent increase is given before April 20, 2017, the following rules apply:
 - i. Despite the repeal of subsection 6 (2), as it read immediately before the exemption repeal date, by subsection 3 (2) of the *Rental Fairness Act, 2017*, the previously exempt rental unit continues to be exempt from the application of section 120 of this Act for the purpose of that rent increase.
 - ii. The amount of the new rent shall be the amount set out in the notice.
2. If the notice of rent increase is given on or after April 20, 2017 and the new rent takes effect before the exemption repeal date, then, despite the rent increase having taken effect, the following rules apply:
 - i. The amount of new rent charged to the tenant for the rental unit after the exemption repeal date shall be decreased to an amount equal to the sum of,
 - A. the amount of rent that was charged to the tenant before the rent increase took effect, and
 - B. a rent increase equal to the guideline increase.
 - ii. The amount of new rent paid before the exemption repeal date that is in excess of the amount that would have been paid if the rent increase had

been equal to the guideline increase for the calendar year, together with any related amount collected under subsection 106 (3), is a debt owed by the landlord to the tenant and shall be refunded to the tenant by the landlord within 60 days after the exemption repeal date.

- iii. If the landlord fails to refund the amount owing under subparagraph ii within 60 days after the exemption repeal date, the tenant may deduct the amount from a subsequent rent payment.
3. If the notice of rent increase is given on or after April 20, 2017 and the rent increase takes effect on or after the exemption repeal date, the following rules apply:
- i. The rent increase shall take effect on the date set out in the notice, subject to subparagraph ii.
 - ii. The amount of the new rent shall not be the amount set out in the notice but shall be equal to the sum of,
 - A. the amount of rent that was charged to the tenant before the rent increase took effect, and
 - B. a rent increase equal to the guideline increase.

Same

(4) For greater certainty, nothing in subsection (3) validates a notice of rent increase that did not comply with section 116 at the time the notice was given.

22. (1) Paragraph 1 of subsection 126 (1) of the Act is repealed and the following substituted:

- 1. An extraordinary increase in the cost for municipal taxes and charges for the residential complex or any building in which the rental units are located.

(2) Section 126 of the Act is amended by adding the following subsections:

Summary of work yet to be completed relating to elevators

(3.1) The landlord shall include with an application under this section a summary of each of the following, if applicable:

- 1. Any item in a work order that relates to one or more elevators in the residential complex and that has not yet been completed, regardless of whether or not the compliance period has expired.

2. Any item in an order made under section 21 of the *Technical Standards and Safety Act, 2000* that relates to one or more elevators in the residential complex and that has not yet been completed, regardless of whether or not the compliance period has expired and regardless of whether the order was made against the landlord or another person or entity.
3. Any specified repairs or replacements or other work ordered by the Board under paragraph 4 of subsection 30 (1) that relates to one or more elevators in the residential complex and that has not yet been completed, regardless of whether or not the compliance period has expired.

Same

(3.2) A summary referred to in subsection (3.1) shall include the following information:

1. A description of the work that was ordered to be carried out.
2. The person or entity who was ordered to carry out the work and the time for compliance specified in the order.
3. The person or entity who made the order and the date the order was made.
4. Such additional information as may be prescribed.

(3) Subsection 126 (7) of the Act is amended by striking out “Subject to subsections (8) and (9)” at the beginning and substituting “Subject to subsections (8) and (9) and except under the prescribed circumstances”.

(4) Subclause 126 (12) (a) (ii) of the Act is repealed and the following substituted:

- (ii) has not completed specified repairs or replacements or other work ordered by the Board under paragraph 4 of subsection 30 (1) for which the compliance period has expired and which are found by the Board to be related to a serious breach of the landlord’s obligations under subsection 20 (1) or section 161, or

(5) Section 126 of the Act is amended by adding the following subsection:

Application of subs. (13), non-completion of work relating to elevators

(12.1) Subsection (13) applies to a rental unit in a residential complex if the Board finds that,

- (a) the landlord has not completed items in work orders for which the compliance period has expired and which relate to one or more elevators in the residential complex;
- (b) the landlord or another person or entity, as applicable, has not completed items in orders made under the section 21 of the *Technical Standards and Safety Act, 2000* for which the compliance period has expired and which relate to one or more elevators in the residential complex; or
- (c) the landlord has not completed specified repairs or replacements or other work ordered by the Board under paragraph 4 of subsection 30 (1) for which the compliance period has expired and which relates to one or more elevators in the residential complex.

(6) Clause 126 (13) (b) of the Act is amended by striking out “and” at the end of subclause (ii) and by adding the following subclauses:

- (iv) all items referred to in clause (12.1) (a) have been completed, if a finding was made under that clause,
- (v) all items referred to in clause (12.1) (b) have been completed, if a finding was made under that clause, and
- (vi) all repairs, replacements and other work referred to in clause (12.1) (c) have been completed, if a finding was made under that clause.

(7) Section 126 of the Act is amended by adding the following subsection:

Non-application

(15) Subsections (3.1), (3.2) and (12.1) and subclauses 126 (13) (b) (iv), (v) and (vi) do not apply with respect to an application under this section if the application was made before the day subsection 22 (7) of the *Rental Fairness Act, 2017* comes into force.

(8) Section 126 of the Act is amended by adding the following subsection:

Transition, utilities

(16) This section and any related regulations, as they read immediately before the day subsection 22 (1) of the *Rental Fairness Act, 2017* comes into force, continue to apply with respect to applications for an above-guideline rent increase due in whole or in part to an extraordinary increase in the cost for utilities that are made before that day and have not been finally determined before that day.

(9) Section 126 of the Act is amended by adding the following subsection:

Definition

(17) In this section,

“elevator” means an elevator intended for use by tenants.

23. (1) Subsection 128 (1) of the Act is repealed and the following substituted:

Utilities

(1) This section applies with respect to an order issued under subsection 126 (10), on an application made under subsection 126 (1) before the day subsection 22 (1) of the *Rental Fairness Act, 2017* comes into force, permitting an increase in rent that is due in whole or in part to an extraordinary increase in the cost for utilities.

(2) Section 128 of the Act is amended by adding the following subsection:

Transition, subs. (1)

(5) Subsection (1), as it reads immediately before the day subsection 23 (1) of the *Rental Fairness Act, 2017* comes into force, continues to apply with respect to applications for an above-guideline rent increase due in whole or in part to an extraordinary increase in the cost for utilities that are made before the day subsection 22 (1) of that Act comes into force and have not been finally determined before the day subsection 23 (1) of that Act comes into force.

24. (1) Clause 134 (1) (a) of the Act is amended by striking out “tenant or prospective tenant” and substituting “tenant, prospective tenant or former tenant”.

(2) Section 134 of the Act is amended by adding the following subsection:

Same

(1.1) No landlord shall, directly or indirectly, with respect to any rental unit, collect or require or attempt to collect or require from a former tenant of the rental unit any amount of money purporting to be rent in respect of,

- (a) any period after the tenancy has terminated and the tenant has vacated the rental unit; or
- (b) any period after the tenant’s interest in the tenancy has terminated and the tenant has vacated the rental unit.

(3) Subsection 134 (2) of the Act is amended by striking out “mentioned in clause (1) (a), (b) or (c)” and substituting “prohibited under clause (1) (a), (b) or (c) or subsection (1.1)”.

25. Section 135 of the Act is amended by adding the following subsection:

Failure to compensate under s. 48.1, 52, 54 or 55

(1.1) Without limiting the generality of subsection (1), a landlord is deemed to have retained money in contravention of this Act, if the landlord is required to compensate a tenant under section 48.1, 52, 54 or 55 and fails to compensate the tenant as required.

26. Section 149 of the Act is amended by striking out “subject to subsection 6 (2)”.

27. The Act is amended by adding the following section:

Alternatives to affidavits

192.1 Where a provision of this Act requires an affidavit from a person with respect to a specified statement or specified information, the Rules may,

- (a) authorize the use of another document, which may be unsworn, from that person with respect to that specified statement or specified information; and
- (b) require that the document may be used only if it is provided to the Board in accordance with the Rules.

28. Clause 233 (f) of the Act is amended by striking out “sections 52, 54 and 55” at the end and substituting “sections 48.1, 52, 54 and 55”.

29. Clause 234 (l) of the Act is amended by adding “a former tenant” after “a prospective tenant”.

30. (1) Subsection 241 (1) of the Act is amended by adding the following paragraphs:

- 6.1 prescribing requirements that a dispute resolution process must meet for the purposes of subparagraph 3 iii of subsection 5.1 (3);
- 6.2 prescribing requirements that an agreement must meet for the purposes of paragraph 5 of subsection 5.1 (3) or clause 5.1 (4) (b).

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

23.1 prescribing information to be included in a summary for the purposes of paragraph 4 of subsection 126 (3.2);

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

24.1 prescribing circumstances under which a capital expenditure is not an eligible capital expenditure under subsection 126 (7);

(4) Paragraph 41 of subsection 241 (1) of the Act is repealed and the following substituted:

41. exempting specified payments from the operation of subsection 134 (1) or (3);

(5) Section 241 of the Act is amended by adding the following subsection:

Regulation under subs. (1), par. 24.1

(3) A regulation made under paragraph 24.1 of subsection (1) may apply with respect to a capital expenditure incurred before the day the regulation comes into force.

31. Part XVII of the Act is amended by adding the following section:

Regulations made by Minister

241.1 The Minister may make regulations,

1. prescribing classes of tenancies for the purposes of subsection 12.1 (1);
2. with respect to each prescribed class of tenancies, prescribing,
 - i. a date for that class for the purposes of subsection 12.1 (1);
 - ii. the form of a tenancy agreement for that class for the purposes of paragraph 1 of subsection 12.1 (1);
3. with respect to each prescribed class of tenancies, prescribing the requirements for a tenancy agreement for that class for the purposes of paragraph 2 of subsection 12.1 (1), including,
 - i. providing that a tenancy agreement for that class may include additional terms but only if those terms are not inconsistent with the mandatory terms set out in the form of tenancy agreement prescribed for that class,

- ii. providing that any additional term included in a tenancy agreement for that class that is inconsistent with the mandatory terms set out in the form of tenancy agreement prescribed for that class is void.

32. Part XVII of the Act is amended by adding the following section:

Transition regulations, *Rental Fairness Act, 2017*

241.2 (1) The Lieutenant Governor in Council may make regulations governing transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or advisable to deal with issues arising out of the amendments to this Act made by the *Rental Fairness Act, 2017*.

Same

- (2) A regulation made under subsection (1),
 - (a) may provide that, despite the coming into force of a provision of this Act, as enacted by the *Rental Fairness Act, 2017*, the provision does not take effect in all or part of the province until the date specified in the regulations;
 - (b) may provide that a provision of this Act, as it reads immediately before the commencement date of its amendment, repeal or re-enactment by the *Rental Fairness Act, 2017*, continues to apply for a specified period of time and with necessary modifications, to specified things or in specified circumstances;
 - (c) may govern the application of provisions of this Act to proceedings before a court or the Board in which a claim is made relating to amendments to this Act made by the *Rental Fairness Act, 2017* and which were commenced before the commencement date of the amendment.

Commencement

33. (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Same

(2) Section 2, subsection 3 (1), sections 4, 7 to 14, 16 to 19, 22 and 23, subsection 24 (1), sections 25 and 28 and subsections 30 (1), (2), (3) and (5) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

34. The short title of this Act is the *Rental Fairness Act, 2017*.

