

Amendments at Third Reading of Bill 109, *Residential Tenancies Act, 2006*

Clinic Resource Office,
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Index text refers to margin notes from Bill 109, Residential Tenancies Act, 2006. References are to page numbers.

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The following chart sets out more significant amendments from 1st/2nd reading to 3rd Reading for Bill 109.

The table also indicates some of the more significant recommended amendments that were not adopted by the committee

There are a number of minor technical amendments not included below

The sections are preceded with a coloured bar indicating whether the amendment is a positive or negative change, relative to 1st reading:

Signifies negative change or failure to adopt recommendations
Signifies recommendation not adopted, but potential for similar result to be achieved through regulations or rules, or that amendment was neutral
Signifies positive change and/or adoption of recommendation

The order of sections below is the same as in the document "**Recommended Amendments to Second Reading of Bill 109, Residential Tenancies Act, 2006**" prepared by ACTO/LCHIC and submitted to the Ministry and Standing Committee on General Government. The first six items were considered the most important changes by ACTO/LCHIC.

Section	Amendment at 3rd Reading	Comments
Purposes of Act s.1	<i>No change</i>	The new 'purpose' clause has narrowed the scope of tenant protection in the legislation. The recommendation that it be broadened was not adopted.
Setting Hearing Order Aside s. 209 (2)	<i>Amended to expressly provide that a review may be granted where respondent was not reasonably able to participate in the proceeding</i>	Amendment introduced to s. 209(2). ACTO/LCHIC recommendation had been to put forward a specific procedure in the Act for dealing with cases where a tenant did not show up. The addition of s.209(2) indicates that

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		<p>there will be a separate review procedure to deal with no-shows than with reviews on the merits.</p> <p>The review procedure is determined under the Board's rules, There may be opportunity for input through the Stakeholder Committee.</p>
<p>Determinations related to housing assistance</p> <p>s. 203</p>	<p><i>No change</i></p>	<p>Board expressly cannot consider issues relating to the cancellation of a subsidy.</p> <p>ACTO/LCHIC are actively pursuing this issue. Given that this amendment was not adopted, the focus will be on an independent review of SHRA decisions in another forum, such as the Social Benefits Tribunal.</p>
<p>Termination for cause, reasonable enjoyment of landlord in small building</p> <p>s. 65. (1)</p>	<p><i>Definition of "Small building" for fast-track eviction changed from 6 to 3 units.</i></p>	<p>ACTO/LCHIC recommendation was 2 units. This will limit the application of this section to basement apartments/triplex buildings, and will exclude small apartment buildings originally included</p>
<p>Tenant's responsibility for repair of damage</p> <p>s. 34. s. 89</p>	<p><i>phrase "willful or negligent" added to sections to limit tenant liability for damage to tort standard. Tenants now only liable for "willful or negligent undue damage"</i></p>	<p>Under the TPA, a tenant was liable for damage caused by willful or negligent conduct.</p> <p>Bill 109 initially removed the terms 'willful or negligent', and made tenants strictly liable for undue damage.</p>
<p>Unauthorized Occupancy (Rights of spouses/family members)</p> <p>s. 100. (1)</p>	<p><i>No change</i></p>	<p>The bill does contain provisions for prescribing classes of persons who may be considered tenants, so a similar result may be obtained through the regulations.</p>

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Interpretation (Definition of Landlord) s. 2. (1)	<i>No Change</i>	Recommendation to remove 'other than a tenant occupying a rental unit' exemption from definition of landlord not adopted
Exemptions related to social, etc., housing s. 7	<i>No Change.</i>	Market rent units in social housing are still exempt from certain rent control provisions
Entry with notice s. 27. (1) 4.	<i>Amended to put requirement that right of landlord to inspect unit with 24 hours notice only available where reasonable.</i>	ACTO/LCHIC recommendation adopted
Time limitation s. 29. (2) etc.	<i>No Change.</i>	1 year limitation period remains. Recommendation to extend limitation periods for tenant applications to 2 years, to match <i>Limitations Act</i> period, not adopted
Where eviction order enforced s. 41. (2), (3)	<i>No Change.</i>	NDP Motion to extend 72 hour period to 7 days Defeated. ACTO/LCHIC recommendation was 14 days.
Where eviction order enforced s. 41(6)	<i>Amended to give former tenant right to bring application to Board where landlord does not make possessions available during 72 hours after eviction</i>	This amendment adopts most of the ACTO/LCHIC recommendation, other than it does not give the Board jurisdiction to resolve disputes where the parties have agreed to other timeframes under s. 41(5)

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Notice, landlord personally, etc., requires unit ss. 48. (1) (d), 49(1)(d), 49(2)(d)	<i>Amended so that notice of termination for use by caregiver must be for unit in same residential complex as person receiving care</i>	ACTO/LCHIC recommendation adopted
Former tenant's application where notice given in bad faith 57. (1)	<i>Amended to clarify that a tenant may apply if own use notice given in bad faith even if eviction matter proceeds to Board, and Board earlier finds notice was not given in bad faith</i>	Even if the tenant challenges an eviction application based on landlord or purchaser's own use and is not successful, that the tenant may nonetheless bring a subsequent application if it turns out the notice was given in bad faith, i.e., if the landlord/purchaser does not in fact move into the unit.
Exception, notice under s. 63 80. (2)	<i>Eviction order can be enforceable before termination date in notice for impairment of safety applications as well as vandalism etc.</i>	Extends the application of express eviction provisions
Demolition, conversion, repairs 73. (b) (ii)	<i>No Change</i>	This section will allow landlords to bring eviction applications for conversion/demolition even where municipality has refused to issue a permit because the unit is not vacant. This will undermine bylaws designed to protect rental housing.
Circumstances where refusal required (Mandatory Relief from Eviction) 83. (3)	<i>No Change</i>	The TPA changed the mandatory evictions from the previous legislation, which provided that one of the items listed be "a" reason, as opposed to "the" reason.

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Lawful rent for new tenant s. 113	<i>No Change</i>	Vacancy decontrol is still in place.
Application for above guideline increase s. 126(8)	<i>Amendment to extend AGIs to allow for items that require major repair or replacement, and to allow AGIs for expenditures that 'promote' accessibility, energy conservation or security changes, rather than 'result in an improvement in'</i>	Original section limited AGIs to items that required replacement only. The previous wording limited the inclusion of items in AGIs that would in fact result in an improvement in accessibility, energy conservation or security. The new wording broadens what might be included in an AGI under this section
Application for above guideline increase s. 126(8.1)	<i>Amendment to provide that a new tenant will not be subject to an AGI for capital work completed before the tenant moved in</i>	Federation of Metro Tenants' Associations recommendation adopted
Application for above guideline increase s. 126(9)-(11)	<i>Amended to give Board the option to defer, rather than dismiss, AGI application if landlord is in serious breach of maintenance obligations</i>	The original wording required the Board to dismiss an AGI application where the landlord was in serious breach of maintenance obligations
Rent deemed lawful 136. (1), (2)	<i>No Change</i>	Rents charged are still deemed lawful after one year.
Smart meters s.137	<i>No Change</i>	Potential through regulations to ensure that smart metering is implemented effectively and fairly

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Apportionment of utility costs s.138	<i>No Change.</i>	There is no evidence that the proposed section has any correlation to the Ministry's stated goal of energy conservation.
Notice by Board 189. (1)	<i>Amended to require Board to include information related to the hearing.</i>	ACTO/LCHIC recommendation adopted
Conditions in Order (Costs) s. 204(5)	<i>Amendment to exempt cost provisions from SPPA s. 17.1</i>	Under SPPA s. 17.1, costs are only payable in exceptional circumstances, e.g., where the conduct of a party has delayed the proceedings or an application is frivolous or vexatious. This section opens the door for the Board to order costs in the normal course, as in court proceedings.