

1 **SENATE FLOOR VERSION**

2 April 10, 2023

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2109

6 By: Pae, Schreiber, Waldron,
7 Dollens, Menz, Bennett,
8 Provenzano, Talley,
9 Goodwin, Hefner, Deck and
10 Swope of the House

11 and

12 Montgomery of the Senate

13 [landlord and tenant - retaliation - rent - services
14 - remedy procedures for tenants - nonretaliatory
15 actions - right to recovery - obligation of a
16 landlord - relief - landlord's liability for damages
17 - action for possession - standard of habitability -
18 housing requirements - damages - tenant rights -
19 codification - effective date]

20 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 137 of Title 41, unless there is
23 created a duplication in numbering, reads as follows:

24 A. 1. Except as provided in this section or as otherwise
provided by law, a landlord renting more than ten dwelling units in
the State of Oklahoma may not retaliate against a tenant by
increasing rent, decreasing services, by bringing or threatening to

1 bring an action for possession, or by causing a termination of the
2 rental agreement after the landlord has knowledge that:

3 a. the tenant, in good faith, has made a complaint to a
4 governmental agency charged with the enforcement of
5 building or housing code violations related to health
6 or safety,

7 b. the tenant, in good faith, has made a complaint to or
8 filed an action against the landlord for a violation
9 of any provision of Title 41 of the Oklahoma Statutes,

10 c. the tenant, in good faith, has given the landlord a
11 notice to repair or exercise a remedy under Title 41
12 of the Oklahoma Statutes,

13 d. the tenant, in good faith, has organized or become a
14 member of a tenants' organization, or

15 e. the tenant, in good faith, has testified in a court
16 proceeding against the landlord.

17 2. However, the provisions of this section shall not be
18 construed to prevent the landlord from increasing rent nor from
19 decreasing services in a manner that applies equally to all tenants.

20 B. If a landlord acts in violation of this section, the tenant
21 is entitled to the applicable remedies provided for in Title 41 of
22 the Oklahoma Statutes, including recovery of actual damages plus
23 reasonable attorney fees, and may assert such retaliation as a
24 defense in any action against the landlord for possession.

1 C. Actions by a landlord shall not be considered retaliatory
2 if:

3 1. The tenant is in arrears with regard to his or her rental
4 agreement;

5 2. The tenant creates conditions within the unit which are
6 unsafe or destructive; or

7 3. An unforeseen action causes the landlord to comply with a
8 code which would deprive the tenant of the right to continue using
9 the unit.

10 D. The landlord shall retain the right to recovery of the
11 premises if that recovery was done in good faith, which actions
12 shall include:

13 1. The tenant using the unit for an illegal or illicit purpose
14 or otherwise creating a nuisance on the property;

15 2. The landlord recovering possession of the unit from the
16 tenant in order to use the unit as a primary residence for either
17 the landlord or the landlord's immediate family;

18 3. The landlord recovering possession of the unit for the
19 purposes of substantially altering, remodeling, or demolishing the
20 unit; or

21 4. When the unit is sold and the purchaser intends to use it as
22 a primary residence for either the landlord or a member of the
23 landlord's immediate family.

24 E. Increases in rent shall not be considered retaliation if:

- 1 1. Compliance with a health department or other agency
- 2 directive creates a financial burden on the landlord;
- 3 2. Rent is increased to mitigate the burden of a substantial
- 4 increase in property taxes;
- 5 3. Substantial improvements to the unit that affects a tax
- 6 depreciation on the landlord's federal tax bill; or
- 7 4. Rent is increased, upon renewal of the lease, in the
- 8 standard course of business.

9 SECTION 2. AMENDATORY 41 O.S. 2021, Section 121, as
10 amended by Section 1, Chapter 230, O.S.L. 2022 (41 O.S. Supp. 2022,
11 Section 121), is amended to read as follows:

12 Section 121. A. Except as otherwise provided in this act, if
13 there is a material noncompliance by the landlord with the terms of
14 the rental agreement or a noncompliance with any of the provisions
15 of Section 118 of this title which noncompliance materially affects
16 health or safety, the tenant may deliver to the landlord a written
17 notice specifying the acts and omissions constituting the breach and
18 that the rental agreement will terminate upon a date not less than
19 thirty (30) days after receipt of the notice if the breach is not
20 remedied within fourteen (14) days, and thereafter the ~~rental~~
21 ~~agreement shall so terminate as provided in the notice unless the~~
22 ~~landlord adequately remedies the breach within the time specified~~
23 tenant may terminate or bring an action in court to enforce an
24 obligation of the landlord.

1 1. A tenant may not bring an action under this title unless the
2 following conditions are met:

3 a. the tenant gives the landlord written notice of the
4 landlord's noncompliance with a provision of this
5 title,

6 b. the landlord has been given a reasonable amount of
7 time, not to exceed fourteen (14) days, to make
8 repairs or provide a remedy of the condition described
9 in the tenant's notice. The tenant may not prevent
10 the landlord from having access to the rental premises
11 to make repairs or provide a remedy to the condition
12 described in the tenant's notice, and

13 c. the landlord fails or refuses to repair or remedy the
14 condition described in the tenant's notice.

15 2. If the tenant is the prevailing party in an action under
16 this section, the tenant may obtain any of the following, if
17 appropriate under the circumstances:

18 a. actual damages and consequential damages,

19 b. attorney fees and court costs,

20 c. injunctive relief, and

21 d. any other remedy appropriate under the circumstances.

22 3. The landlord's liability for damages begins when:

23 a. the landlord has notice or actual knowledge of
24 noncompliance, and

1 b. the landlord has:

2 (1) refused to remedy the noncompliance, or

3 (2) failed to remedy the noncompliance within a

4 reasonable amount of time, not to exceed fourteen

5 (14) days, following the actual knowledge.

6 B. Except as otherwise provided in this act, if there is a
7 material noncompliance by the landlord with any of the terms of the
8 rental agreement or any of the provisions of Section 118 of this
9 title which noncompliance materially affects health and the breach
10 is remediable by repairs, the reasonable cost of which is equal to
11 or less than one month's rent, the tenant may notify the landlord in
12 writing of his or her intention to correct the condition at the
13 landlord's expense after the expiration of fourteen (14) days. If
14 the landlord fails to comply within said fourteen (14) days, or as
15 promptly as conditions require in the case of an emergency, the
16 tenant may thereafter cause the work to be done in a workmanlike
17 manner and, after submitting to the landlord an itemized statement,
18 deduct from his or her rent the actual and reasonable cost or the
19 fair and reasonable value of the work, not exceeding the amount
20 specified in this subsection, in which event the rental agreement
21 shall not terminate by reason of that breach.

22 No action for possession on behalf of the landlord based on
23 nonpayment of rent shall be maintained regarding the premises leased
24 or rented for purposes other than for vacation or recreation, if the

1 tenant is properly exercising a remedy under subsection B of C of
2 this section.

3 C. Except as otherwise provided in this act, if, contrary to
4 the rental agreement or Section 118 of this title, the landlord
5 willfully or negligently fails to supply heat, running water, hot
6 water, electric, gas or other essential service, the tenant may give
7 written notice to the landlord specifying the breach and thereafter
8 may:

9 1. Upon written notice, immediately terminate the rental
10 agreement; or

11 2. Procure reasonable amounts of heat, hot water, running
12 water, electric, gas or other essential service during the period of
13 the landlord's noncompliance and deduct their actual and reasonable
14 cost from the rent; or

15 3. Recover damages based upon the ~~diminution of the fair rental~~
16 ~~value of the dwelling unit~~ landlord's noncompliance at the
17 discretion of the court, including reasonable attorney fees; or

18 4. Upon written notice, procure reasonable substitute housing
19 during the period of the landlord's noncompliance, in which case the
20 tenant is excused from paying rent for the period of the landlord's
21 noncompliance.

22 D. Except as otherwise provided in this act, if there is a
23 noncompliance by the landlord with the terms of the rental agreement
24 or Section 118 of this title, which noncompliance renders the

1 dwelling unit uninhabitable or poses an imminent threat to the
2 health and safety of any occupant of the dwelling unit and which
3 noncompliance is not remedied as promptly as conditions require, the
4 tenant may immediately terminate the rental agreement upon written
5 notice to the landlord which notice specifies the noncompliance.

6 E. All rights of the tenant under this section do not arise
7 until he or she has given written notice to the landlord or if the
8 condition complained of was caused by the deliberate or negligent
9 act or omission of the tenant, a member of his or her family, his or
10 her animal or pet or other person or animal on the premises with his
11 or her consent.

12 SECTION 3. This act shall become effective November 1, 2023.

13 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
14 April 10, 2023 - DO PASS AS AMENDED
15
16
17
18
19
20
21
22
23
24