

SENATE BILL 2299

By McNally

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 5; Title 6; Title 13; Title 16; Title 27; Title 39;  
Title 40; Title 66 and Title 68, relative to housing  
code violations of rented residential property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, is amended by adding the following language as a new chapter:

**66-38-101.** As used in this chapter:

(1) "Housing-related neighborhood organization" means a non-profit corporation that:

(A) Designates in its articles of incorporation or bylaws a specific geographic area to which its activities are limited; and

(B) Is formed with the purposes of promoting community safety, crime prevention, or housing quality in a nondiscriminatory manner;

(2) "Landlord" means the owner, lessor, or sublessor of real property;

(3) "Local governmental entity" means a governing body, board, commission, committee, or department of a municipality or county;

(4) "Residential premises" means

(A) Any building used in whole or in part as a dwelling, including single-family homes, multiple-family units such as apartments, and structures containing both dwelling units and units used for non-dwelling purposes; or

(B) An unoccupied building which was previously used in whole or in part as a dwelling which constitutes a public nuisance, as defined in § 13-6-102; and

(5) "Residential tenant" means a person who is occupying a dwelling in a residential premise under a lease or contract, whether oral or written, that requires the payment of money in exchange for services.

**66-38-102.**

(a) In every lease of residential premises, the landlord covenants to maintain the premises in compliance with the applicable health and safety laws of this state and any applicable ordinance of the local government in which the residential premises are located during the term of the lease, except when the violation is caused by the willful, malicious, or irresponsible conduct of the tenant, or person under the direction or control of the tenant.

(b) The parties to a lease of residential premises may not waive or modify the covenants imposed by this chapter.

**66-38-103.**

(a) The landlord of the residential premises shall disclose to the residential tenant either in the rental agreement or otherwise in writing prior to the commencement of the tenancy the name and address of:

(1) The person authorized to manage the premises; and

(2) The landlord of the premises or an agent authorized by the landlord to accept service of process and receive and give receipt for notices and demands.

(b) The landlord shall place a printed or typewritten notice containing the information required to be disclosed by this section in a conspicuous place on the premises.

(c) If a landlord fails to comply with this section and a person desires to make service of process upon or give notice or demand to the landlord and does not know the name and address of the landlord or the landlord's agent, then a manager of the premises, or an individual to whom the rental payments are made is deemed to be an

agent authorized to accept service of process and receive and give receipt for notices and demands on behalf of the landlord.

**66-38-104.**

(a) A local governmental entity charged with enforcing the code claimed to be violated by a landlord shall inspect the residential premises where the alleged violation is occurring upon the request of a residential tenant or housing-related neighborhood organization.

(b) After the local governmental entity has inspected the residential building pursuant to a request initiated under subsection (a), the inspector shall inform the landlord or the landlord's agent and the residential tenant or housing-related neighborhood organization in writing of any code violations discovered during the inspection. The inspector shall indicate on the inspection order whether the violation threatens the health or safety of a tenant or a prospective tenant. The local governmental entity shall give the landlord or the landlord's agent at least sixty (60) days to correct the violation and may issue reasonable extensions as necessary.

(c) All code violation records pertaining to a particular parcel of real property and the buildings, improvements, and dwelling units located thereon kept by any state or local governmental entity charged by the governing body of the appropriate political subdivision with the responsibility for enforcing a state, county, or municipal health, housing, building, fire prevention, or housing maintenance code shall be available to all persons having a reasonable need for the information contained in the records relating to the premises, at reasonable times, and upon reasonable notice to the custodian of the records for inspection, examination, abstracting, or copying at the expense of the person obtaining the information. The persons to whom the records are available under this subsection include the following persons or their representative:

(1) Any person considering in good faith the lease or purchase of the premises;

(2) Any person authorized to request an inspection under this chapter;

and

(3) A party to any action related to the premises.

**66-38-105.**

(a) Except as provided in subsection (b), a landlord, agent, or person acting under the landlord's direction or control shall provide a copy of all outstanding inspection orders for which a citation has been issued, pertaining to a rental unit or common area, that specifies the code violations issued under § 66-38-104 that the housing inspector identifies as threatening the health or safety of the tenant, and all outstanding condemnation orders and declarations that the premises are unfit for human habitation to:

(1) A tenant, either by delivery or by U.S. mail, postage prepaid, within seventy-two (72) hours after issuance of the citation;

(2) A person before signing a lease or paying rent or a security deposit to begin a new tenancy; and

(3) A person prior to obtaining new ownership of the property subject to the order or declaration of an inspection.

(b) A landlord, agent, or person acting under the landlord's direction or control is not in violation of this section if:

(1) The landlord, agent, or person acting under the landlord's direction or control has received only an initial order to repair;

(2) The time allowed to complete the repairs, including any extension of the deadline, has not yet expired, or less than sixty (60) days has elapsed since the expiration date of repair orders, and no extension has been issued; or

(3) The landlord, agent, or person acting under the landlord's direction or control completes the repairs within the time given to repair, including any extension of the initial deadline to correct any violation.

**66-38-106.**

(a) A landlord, agent, or person acting under the landlord's direction or control may not accept rent or a security deposit for residential rental property from a tenant after the leased premises have been condemned or declared unfit for human habitation by the applicable state or local governmental entity if the tenancy commenced after the premises were condemned or declared unfit for human habitation. If a landlord, agent, or person acting under the landlord's direction or control violates this section, the landlord is liable to the tenant for actual damages and an amount equal to three (3) times the amount of all money collected from the tenant after the date of condemnation or declaration, plus costs and attorneys' fees.

(b) The remedies provided in this section are in addition to and shall not limit any other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or any other agreement contrary to this section is contrary to public policy and void.

**66-38-107.**

(a) An action to enforce this chapter may be brought in chancery or general sessions court by:

(1) A residential tenant of a residential building in which a violation is alleged to exist;

(2) Any housing-related neighborhood organization with the written permission of a residential tenant of a residential building in which a violation is alleged to exist;

(3) A housing-related neighborhood organization that has within its geographical area an unoccupied residential building in which a violation is alleged to exist; or

(4) A state or local governmental entity charged with the enforcement of codes relating to the health, housing, or building maintenance.

(b) The venue of the action authorized by this section is the county where the residential building alleged to contain the violation is located.

(c) An action authorized by this section may be brought:

(1) After a residential building inspection has been made pursuant to § 66-38-104, the time granted by the local authority has expired, and satisfactory repairs to remove the violation have not been made; or

(2) If the residential tenant, or the housing-related neighborhood organization with the written permission of the tenant, alleges the time to repair granted by a local governmental entity under § 66-38-104 is excessive.

**66-38-108.**

(a) Any action brought under § 66-38-107 must commence by a service of a complaint and summons. The summons may only be issued by a judge or court administrator. The complaint must be verified and must:

(1) Allege material facts showing that a violation exists in the residential building;

(2) State the relief sought; and

(3) List the rent due each month from each dwelling unit within the residential building, if known.

(b) The complaint must be accompanied by a copy of the official report of inspection by a state or local governmental entity, certified by the custodian of records of that entity stating:

(1)

(A) The name of the inspector and the date of inspection;

(B) A list of any code violations found; and

(C) A copy of the notice of code violations delivered to the landlord; or

(2) That a request for inspection was made to the appropriate agency of state or local governmental entity, that demand was made on the landlord to correct the alleged code violation, and that a reasonable period of time has elapsed since the demand or request was made.

**66-38-109.**

(a) If a court finds that the complaint described in § 66-38-108 has been proved, it may, in its discretion, take any of the following actions, either alone or in combination:

(1) Order the landlord to remedy the violation promptly if the court is satisfied that corrective action will be undertaken promptly;

(2) Order the residential tenant to remedy the violation found by the court to exist and deduct the cost from the rent subject to the terms as the court determines to be just;

(3) Appoint an administrator for a designated time period with powers described in § 66-38-110 to take any corrective action necessary to remedy the violation.

(b) If a court finds that a landlord has willfully failed to comply with a court order to remedy a violation, the court shall fine the landlord according to the following schedule:

(1) Two hundred and fifty dollars (\$250) for the first failure to comply;

(2) Five hundred dollars (\$500) for the second failure to comply with an order regarding the same violation; and

(3) Seven hundred and fifty dollars (\$750) for the third and each subsequent failure to comply with an order regarding the same violation.

(c) Any landlord who has willfully failed to comply with a court order to remedy a violation three (3) or more times within a one (1) year period is guilty of a class A misdemeanor.

**66-38-110.**

(a) An administrator appointed by a court pursuant to § 66-38-109 may be any person or local government entity, other than:

(1) The landlord of the building;

(2) The inspector;

(3) The complaining residential tenant; or

(4) Any person living in the complaining residential tenant's dwelling unit.

(b) An administrator may:

(1) Collect rents from residential tenants, evict residential tenants for nonpayment of rent or other cause, enter into leases for vacant dwelling units, and exercise other powers necessary and appropriate to carry out the purposes of this chapter;

(2) Contract for the reasonable cost of materials, labor, and services necessary to remedy the violation found by the court to exist and for the



rehabilitation of the property to maintain safe and habitable conditions over the useful life of the property, and disburse money for these purposes from funds available for such purpose;

(3) Provide any services to the residential tenants that the landlord is obligated to provide, but refuses or fails to provide, and pay for them from funds available for such purpose; and

(4) Petition the court, after notice to the parties, for an order allowing the administrator to encumber the property to secure funds to the extent necessary to cover the costs described in subdivision (b)(2), including reasonable fees for the administrator's services, and to pay for the costs from funds derived from the encumbrance.

(c) A person or neighborhood organization appointed by a court as an administrator shall post bond to the extent of the rents expected by the court to be necessary to be collected to correct the violation. Administrators appointed from local governmental agencies shall not be required to post bond.

(d) The court may allow a reasonable amount to be charged by an administrator for the cost of their services. When the administration terminates, the court may enter judgment against the landlord in a reasonable amount for the services and expenses incurred by the administrator.

(e) At any time during the administration, the administrator or any party may petition the court after notice to all parties for an order terminating the administration on the ground that the funds available to the administrator are insufficient to effect the prompt remedy of the violations. If the court finds that the petition is proved, the court shall terminate the administration and proceed to judgment under § 66-38-109.

(f) An administrator may not be held personally liable in the performance of duties under this chapter except for misfeasance, malfeasance, or nonfeasance of office.

**66-38-111.** The attorney general has authority to investigate and prosecute violations of this chapter

**66-38-112.** In the event of any conflict between this chapter and the Uniform Residential Landlord and Tenant Act, compiled in title 66, chapter 28, the Uniform Residential Landlord and Tenant Act shall control.

SECTION 2. This act shall take effect July 1, 2014, the public welfare requiring it, and is applicable to all rental contracts and leases entered, or renewed, on or after such date.