

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  
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