

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3095

By: Tedford

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6 AS INTRODUCED

7 An Act relating to landlord and tenant; providing for
8 preemption; authorizing certain late fees;
9 authorizing certain fees for complaint filing, court
10 appearances and second trials; providing limitations
11 on charging and collecting certain fees; providing
12 for the collection of certain out-of-pocket expenses;
13 prohibiting retaliation by a landlord; providing
14 retaliatory actions; provides when an act is not
15 retaliatory; provides remedies for landlord
16 retaliation; providing remedies for landlord when
17 tenant makes invalid retaliation complaint; providing
18 that relation by a landlord is a defense for eviction
19 in certain circumstances; amending 41 O.S. 2021,
20 Section 131, which relates to delinquent rent;
21 providing for the inclusion of late charges;
22 providing for the validity of certain late penalties
23 in a lease; providing for codification; and providing
24 an effective date.

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18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

22 The regulation of residential tenancies, the landlord-tenant
23 relationship, and all other matters covered under this title are
24 preempted to the state. This title supersedes any local government
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1 regulations on matters covered under this title, including, but not
2 limited to, the screening process used by a landlord in approving
3 tenancies; security deposits; rental agreement applications and fees
4 associated with such applications; terms and conditions of rental
5 agreements; the rights and responsibilities of the landlord and
6 tenant; disclosures concerning the premises; the dwelling unit; the
7 rental agreement; or the rights and responsibilities of the landlord
8 and tenant; fees charged by the landlord; or notice requirement.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 138 of Title 41, unless there is
11 created a duplication in numbering, reads as follows:

12 A. In all residential rental agreements in which a definite
13 time for the payment of the rent is fixed, the parties may agree to
14 a late fee not inconsistent with the provisions of this subsection,
15 to be chargeable only if any rental payment is five days or more
16 late. If the rent:

17 1. Is due in monthly installments, a landlord may charge a late
18 fee not to exceed Fifteen Dollars (\$15.00) or five percent (5%) of
19 the monthly rent, whichever is greater; or

20 2. Is due in weekly installments, a landlord may charge a late
21 fee not to exceed Four Dollars (\$4.00) or five percent (5%) of the
22 weekly rent, whichever is greater.

23 B. A late fee under subsection A of this section may be imposed
24 only one time for each late rental payment. A late fee for a
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1 specific late rental payment may not be deducted from a subsequent
2 rental payment so as to cause the subsequent rental payment to be in
3 default.

4 C. Pursuant to a written lease, a landlord may charge a
5 complaint filing fee not to exceed Fifteen Dollars (\$15.00) or five
6 percent (5%) of the monthly rent, whichever is greater, only if the
7 tenant was in default of the lease, if the landlord filed and served
8 a complaint for summary ejectment and/or money owed, if the tenant
9 cured the default or claim, or if the landlord dismissed the
10 complaint prior to judgment. The landlord can include this fee in
11 the amount required to cure the default.

12 D. Pursuant to a written lease, a landlord may charge a court
13 appearance fee in an amount equal to ten percent (10%) of the
14 monthly rent, only if the tenant was in default of the lease and the
15 landlord filed, served, and prosecuted successfully an action for
16 forcible entry and detainer and/or unpaid rent. If the tenant
17 appeals the judgment and the judgment is vacated, any fee awarded to
18 the landlord under this subsection shall be vacated.

19 E. Pursuant to a written lease, a landlord may charge a second
20 trial fee for a new trial following an appeal from a judgment. To
21 qualify for the fee, the landlord must prove that the tenant was in
22 default of the lease and the landlord prevailed. The landlord's fee
23 may not exceed twelve percent (12%) of the monthly rent in the
24 lease.

1 F. Limitations on Charging and Collection of Fee:

2 1. A landlord who claims fees under subsections C, D, and E of
3 this section is entitled to charge and retain only one of the above
4 fees for the landlord's action for forcible entry and detainer
5 and/or unpaid rent;

6 2. A landlord who earns a fee under subsections C, D, and E of
7 this section may not deduct payment of that fee from a tenant's
8 subsequent rent payment or declare a failure to pay the fee as a
9 default of the lease for a subsequent forcible entry and detainer
10 action;

11 3. It is contrary to public policy for a landlord to put in a
12 lease or claim any fee for filing an action for forcible entry and
13 detainer and/or unpaid rent other than the ones expressly authorized
14 by subsections C, D, E, and G of this section, and a reasonable
15 attorney fee as allowed by law;

16 4. Any provision of a rental agreement contrary to the
17 provisions of this section is against the public policy of this
18 state and therefore void and unenforceable;

19 5. If the rent is subsidized by the United States Department of
20 Housing and Urban Development, by the United States Department of
21 Agriculture, by a state agency, by a public housing authority, or by
22 a local government, any fee charged pursuant to this section shall
23 be calculated on the tenant's share of the contract rent only and
24 the rent subsidy shall not be included.

1 G. In addition to the late fees referenced in subsections A and
2 B of this section and the administrative fees of a landlord
3 referenced in subsections C, D, and E of this section, a landlord is
4 also permitted to charge and recover from a tenant the following
5 actual out-of-pocket expenses:

- 6 1. Filing fees charged by the court;
- 7 2. Costs for service of process; and
- 8 3. Reasonable attorney fees actually incurred pursuant to a
9 written lease, not to exceed fifteen percent (15%) of the amount
10 owed by the tenant or fifteen percent (15%) of the monthly rent
11 stated in the lease if the eviction is based on a default other than
12 the nonpayment of rent.

13 H. The out-of-pocket expenses listed in subsection G of this
14 section are allowed to be included by the landlord in the amount
15 required to cure a default.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 139 of Title 41, unless there is
18 created a duplication in numbering, reads as follows:

19 A. A landlord may not retaliate against a tenant by taking an
20 action described by subsection B because the tenant:

- 21 1. In good faith exercises or attempts to exercise against a
22 landlord a right or remedy granted to the tenant by lease, municipal
23 ordinance, or federal or state statute;

1 2. Gives a landlord a notice to repair or exercise a remedy
2 under Title 41 of the Oklahoma Statutes;

3 3. Complains to a governmental entity responsible for enforcing
4 building or housing codes, a public utility, or a civic or nonprofit
5 agency, and the tenant:

6 a. claims a building or housing code violation or utility
7 problem, and

8 b. believes in good faith that the complaint is valid and
9 that the violation or problem occurred; or

10 4. Establishes, attempts to establish, or participates in a
11 tenant organization.

12 B. A landlord may not, within six (6) months after the date of
13 the tenant's action under subsection A of this section, retaliate
14 against the tenant by:

15 1. Filing an eviction proceeding, except for legitimate reasons
16 authorized by law;

17 2. Depriving the tenant of the use of the premises, except for
18 reasons authorized by law;

19 3. Decreasing services to the tenant;

20 4. Increasing the tenant's rent or terminating the tenant's
21 lease; or

22 5. Engaging, in bad faith, in a course of conduct that
23 materially interferes with the tenant's rights under the tenant's
24 lease.

1 C. The landlord is not liable for retaliation under this
2 section if the landlord proves that the action was not made for
3 purposes of retaliation, nor is the landlord liable, unless the
4 action violates a prior court order for:

5 1. Increasing rent under an escalation clause in a written
6 lease for utilities, taxes, or insurance; or

7 2. Increasing rent or reducing services as part of a pattern of
8 rent increases or service reductions for an entire multi-dwelling
9 project.

10 D. An eviction or lease termination based on the following
11 circumstances, which are valid grounds for eviction or lease
12 termination in any event, does not constitute retaliation:

13 1. The tenant is delinquent in rent when the landlord gives
14 notice to vacate or files an eviction action;

15 2. The tenant, a member of the tenant's family, or a guest or
16 invitee of the tenant intentionally damages property on the premises
17 or by word or conduct threatens the personal safety of the landlord,
18 the landlord's employees, or another tenant;

19 3. The tenant has materially breached the lease, other than by
20 holding over, by an action such as violating written lease
21 provisions prohibiting serious misconduct or criminal acts, except
22 as provided by this section;

23 4. The tenant holds over after giving notice of termination or
24 intent to vacate;

1 5. The tenant holds over after the landlord gives notice of
2 termination at the end of the rental term and the tenant does not
3 take action until after the landlord gives notice of termination;
4 or

5 6. The tenant holds over and the landlord's notice of
6 termination is motivated by a good faith belief that the tenant, a
7 member of the tenant's family, or a guest or invitee of the tenant
8 might:

9 a. adversely affect the quiet enjoyment by other tenants
10 or neighbors,

11 b. materially affect the health or safety of the
12 landlord, other tenants, or neighbors, or

13 c. damage the property of the landlord, other tenants, or
14 neighbors.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 140 of Title 41, unless there is
17 created a duplication in numbering, reads as follows:

18 In addition to other remedies provided by law, if a landlord
19 retaliates against a tenant under this act, the tenant may recover
20 from the landlord a civil penalty of one month's rent plus Five
21 Hundred Dollars (\$500.00), actual damages, court costs, and
22 reasonable attorney's fees in an action for recovery of property
23 damages, moving costs, actual expenses, civil penalties, or
24 declaratory or injunctive relief, less any delinquent rents or other
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1 sums for which the tenant is liable to the landlord. If the
2 tenant's rent payment to the landlord is subsidized in whole or in
3 part by a governmental entity, the civil penalty granted under this
4 section shall reflect the fair market rent of the dwelling plus Five
5 Hundred Dollars (\$500.00).

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 141 of Title 41, unless there is
8 created a duplication in numbering, reads as follows:

9 A. If a tenant files or prosecutes a suit for retaliatory
10 action based on a complaint asserted under Section 3 of this act and
11 the government building or housing inspector or utility company
12 representative visits the premises and determines in writing that a
13 violation of a building or housing code does not exist or that a
14 utility problem does not exist, there is a rebuttable presumption
15 that the tenant acted in bad faith.

16 B. If a tenant files or prosecutes a suit under this act in bad
17 faith, the landlord may recover possession of the dwelling unit and
18 may recover from the tenant a civil penalty of one month's rent plus
19 Five Hundred Dollars (\$500.00), court costs, and reasonable attorney
20 fees. If the tenant's rent payment to the landlord is subsidized in
21 whole or in part by a governmental entity, the civil penalty granted
22 under this section shall reflect the fair market rent of the
23 dwelling plus Five Hundred Dollars (\$500.00).

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 142 of Title 41, unless there is
3 created a duplication in numbering, reads as follows:

4 In an eviction suit, retaliation by the landlord under Section 3
5 of this act is a defense and a rent deduction lawfully made by the
6 tenant under this act is a defense for nonpayment of the rent to the
7 extent allowed by this title. Other judicial actions under this
8 title may not be joined with an eviction suit or asserted as a
9 defense or cross-claim in an eviction suit.

10 SECTION 7. AMENDATORY 41 O.S. 2021, Section 131, is
11 amended to read as follows:

12 Section 131. A. If rent is unpaid when due and any late
13 charges are unpaid when due, the landlord may bring an action for
14 recovery of the rent and any late charge at any time thereafter or
15 the landlord may wait until the expiration of the period allowed for
16 curing a default by the tenant, as prescribed in subsection ~~B~~ C of
17 this section, before bringing such action.

18 B. A provision in a residential lease, providing for the
19 payment of an amount which shall be presumed to be the amount of
20 damages sustained by the landlord for the late payment of rent shall
21 be held valid with no penalty, when such monthly amount does not
22 exceed twelve percent (12%) of the monthly amount of rent. In the
23 event such monthly amount of rent exceeds twelve percent (12%), such
24 provision shall be held invalid and subject to penalty unless the

1 party seeking to uphold the provision establishes that such amount
2 is reasonable.

3 C. A landlord may terminate a rental agreement for failure to
4 pay rent when due, if the tenant fails to pay the rent within five
5 (5) days after written notice of landlord's demand for payment. The
6 notice may be given before or after the landlord files any action
7 authorized by subsection A of this section. Demand for past due
8 rent and any late charge is deemed a demand for possession of the
9 premises and no further notice to quit possession need be given by
10 the landlord to the tenant for any purpose.

11 SECTION 8. This act shall become effective November 1, 2024.

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