

HOUSE BILL NO. 817

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate McClure)

A BILL to amend and reenact §§ 55.1-1258 and 55.1-1314 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; Manufactured Home Lot Rental Act; retaliatory conduct prohibited.

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-1258 and 55.1-1314 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-1258. Retaliatory conduct prohibited.

A. Except as provided in this section or as otherwise provided by law, a landlord ~~may~~ shall not retaliate ~~by increasing rent or decreasing services or by bringing or threatening to bring an~~ against a tenant by taking any action for possession or by causing a termination of the rental agreement pursuant to § 55.1-1253 or 55.1-1410 after he has knowledge that (i) set forth in subsection B because after he has actual knowledge that the tenant has (i) complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health or safety; ~~(ii) the tenant has made a complaint to or filed an action against the landlord for a violation of any member of a news or media outlet of noncompliance with the lease or this chapter;~~ (iii) made a written complaint to or filed an action against the landlord for a violation of the lease, any provision of this chapter, (iii) the tenant has the Virginia Fair Housing Law (§ 36-96.1 et seq.), or the federal Fair Housing Act of 1968 (42 U.S.C. § 3601 et seq.); (iv) organized or ~~become a member of,~~ or participated in lawful activities pertaining to a tenant's organization; ~~or (iv) the tenant has (v) or testified in a court proceeding against the landlord. However, the provisions of this subsection shall not be construed to prevent the landlord from increasing rent to that which is charged for similar market rentals nor decreasing services that apply equally to all tenants.~~

27 B. ~~If the landlord acts in violation of this section, the tenant is entitled to the applicable remedies~~
28 ~~provided for in this chapter, including recovery of actual damages, and may assert such retaliation as a~~
29 ~~defense in any action against him for possession. The burden of proving retaliatory intent shall be on the~~
30 ~~tenant.~~ If a landlord has knowledge that a tenant has taken any action set forth in subsection A, the landlord
31 may not retaliate against the tenant by (i) increasing rent or fees only on the complaining tenant; (ii)
32 selectively decreasing services, selectively enforcing a rule or imposing a different rule on the complaining
33 tenant, or otherwise materially altering the terms of the lease without consent of the complaining tenant;
34 (iii) threatening, harassing, or coercing the complaining tenant; (iv) bringing an action or threatening to
35 bring an action for possession against the complaining tenant; (v) terminating a rental agreement of the
36 complaining tenant pursuant to § 55.1-1253 or 55.1-1410; or (vi) refusing to renew a tenancy where the
37 tenant is receiving tenant-based rental assistance through the federal Housing Choice Voucher Program,
38 42 U.S.C. § 1437f(o), or any other federal, state, or local program. However, the provisions of this
39 subsection shall not be construed to prevent the landlord from increasing rent to that which is charged for
40 similar market rentals.

41 C. Notwithstanding subsections A and B, a landlord shall not be liable for retaliation under this
42 section and may terminate the rental agreement pursuant to § 55.1-1253 or 55.1-1410 and bring an action
43 for possession if:

- 44 1. ~~Violation~~ A violation of the applicable building or housing code was caused primarily by lack
45 of reasonable care by the tenant, an authorized occupant, or a guest or invitee of the tenant;
- 46 2. The tenant is in default in rent at the time an unlawful detainer action for possession is filed;
- 47 3. Compliance with the applicable building or housing code requires alteration, remodeling, or
48 demolition that would effectively deprive the tenant of use of the dwelling unit; ~~or~~
- 49 4. The tenant is in default of a provision of the rental agreement materially affecting the health and
50 safety of himself or others;
- 51 5. Notice to terminate pursuant to § 55.1-1253 or 55.1-1410 was given to the tenant before the
52 tenant engaged in an act set forth in subsection A;
- 53 6. The landlord increases rent or fees pursuant to the lease terms;

- 54 7. The landlord decreases services for or imposes a rule change that applies equally to all tenants;
- 55 8. Notice to terminate for material noncompliance with the lease agreement was given to the tenant
- 56 before the tenant engaged in an act set forth in subsection A; or
- 57 9. The landlord fails to renew a tenancy where the tenant is receiving tenant-based rental assistance
- 58 through the federal Housing Choice Voucher Program, 42 U.S.C. § 1437f(o), or any other federal, state,
- 59 or local program, for good cause.

60 The maintenance of the action provided in this section does not release the landlord from liability
 61 under § 55.1-1226.

62 D. The landlord may also terminate the rental agreement pursuant to § 55.1-1253 or 55.1-1410 for
 63 any other reason not prohibited by law unless the court finds that the reason for the termination was
 64 retaliation. If the landlord acts in violation of this section, the tenant is entitled to the applicable remedies
 65 provided for in this chapter, including recovery of actual damages, and may assert such retaliation as a
 66 defense in any action against him for possession.

67 **§ 55.1-1314. Retaliatory conduct prohibited.**

68 A. Except as provided in this section, or as otherwise provided by law, a landlord shall not retaliate
 69 ~~by selectively increasing rent or decreasing services or by bringing or threatening to bring an~~ against a
 70 tenant by taking any action for possession after the landlord has knowledge that (i) set forth in subsection
 71 B after the landlord has knowledge that the tenant has (i) complained to a governmental agency charged
 72 with responsibility for enforcement of a building or housing code of a violation applicable to the premises
 73 materially affecting health or safety; (ii) ~~the tenant has made a complaint to or filed an action against the~~
 74 ~~landlord for a violation of~~ any member of a news or media outlet of noncompliance with the lease or this
 75 chapter; (iii) filed an action against the landlord for a violation of the lease, any provision of this chapter,
 76 ~~(iii) the tenant has organized or~~ the Virginia Fair Housing Law (§ 36-96.1 et seq.), or the federal Fair
 77 Housing Act of 1968 (42 U.S.C. § 3601 et seq.); (iv) become a member of or participated in lawful
 78 activities pertaining to a tenant's organization; or ~~(iv) the tenant has~~ (v) testified in a court proceeding
 79 against the landlord.

80 B. ~~The landlord shall be deemed to have knowledge of a fact if he has actual knowledge of it, he~~
81 ~~has received a notice or notification of it, or, from all the facts and circumstances known to him at the~~
82 ~~time in question, he has reason to know that it exists.~~ If a landlord has knowledge that a tenant has taken
83 any action set forth in subsection A, the landlord may not retaliate against the tenant by (i) increasing rent
84 or fees only on the complaining tenant; (ii) selectively decreasing services, selectively enforcing a rule or
85 imposing a different rule on the tenant, or otherwise materially altering the terms of the lease without
86 consent of the complaining tenant; (iii) threatening, harassing, or coercing the complaining tenant; (iv)
87 bringing an action or threatening to bring an action for possession against the complaining tenant; (v)
88 terminating a rental agreement of the complaining tenant pursuant to § 55.1-1253 or 55.1-1410; or (vi)
89 refusing to renew a tenancy where the tenant is receiving tenant-based rental assistance through the federal
90 Housing Choice Voucher Program, 42 U.S.C. § 1437f(o), or any other federal, state or local program.
91 However, the provisions of this subsection shall not be construed to prevent the landlord from increasing
92 rent to that which is charged for similar market rentals.

93 C. Notwithstanding the provisions of subsections A and B, a landlord ~~may terminate the rental~~
94 ~~agreement pursuant to subsection A of § 55.1-1308 and bring an action for possession if~~ shall not be liable
95 for retaliation under this section and may terminate the rental agreement pursuant to subsection A of §
96 55.1-1308 and bring an action for possession if:

97 1. ~~Violation~~ A violation of the applicable building or housing code that was caused primarily by
98 lack of reasonable care by the tenant, an authorized occupant, or a guest or invitee of the tenant;

99 2. ~~The landlord terminates the rental agreement and brings an action for possession in response to~~
100 ~~the tenant being~~ The tenant is in default in rent at the time the action for possession is filed;

101 3. ~~The landlord terminates the rental agreement and brings an action for possession due to~~
102 ~~compliance~~ Compliance with the applicable building or housing code that requires alteration, remodeling,
103 or demolition that would effectively deprive the tenant of use of the dwelling unit;

104 4. ~~The landlord terminates the rental agreement and brings an action for possession in response to~~
105 ~~the tenant being~~ is in default of a provision of the rental agreement materially affecting the health and
106 safety of the tenant or others;

