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HOUSE BILL NO. 820

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact § 55-248.39 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; retaliation by landlord; rebuttable presumption.

Patron—Lopez

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 55-248.39 of the Code of Virginia is amended and reenacted as follows:****§ 55-248.39. Retaliatory conduct prohibited.**

A. Except as provided in this section, or as otherwise provided by law, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession or by causing a termination of the rental agreement pursuant to § 55-222 or § 55-248.37 after he has knowledge that: (i) the tenant has 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; or (ii) the tenant has made a complaint to or filed a suit against the landlord for a violation of any provision of this chapter; or (iii) the tenant has organized or become a member of a tenants' organization; or (iv) the tenant has testified in a court proceeding against the landlord. However, the provisions of this subsection shall not be construed to prevent the landlord from increasing rents to that charged on similar market rentals nor decreasing services that shall apply equally to all tenants.

B. If the landlord acts in violation of this section, the tenant is entitled to the applicable remedies provided for in this chapter, including recovery of actual damages, and may assert such retaliation as a defense in any action against him for possession. ~~The~~ *There shall be a rebuttable presumption that the landlord acted in retaliation against a tenant in violation of this section if such retaliation occurs within six months after a tenant takes any action listed in subsection A. After six months, the burden of proving retaliatory intent shall be on the tenant.*

C. Notwithstanding subsections A and B, a landlord may terminate the rental agreement pursuant to § 55-222 or § 55-248.37 and bring an action for possession if:

1. Violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or a member of his household or a person on the premises with his consent;

2. The tenant is in default in rent;

3. Compliance with the applicable building or housing code requires alteration, remodeling or demolition which would effectively deprive the tenant of use of the dwelling unit; or

4. The tenant is in default of a provision of the rental agreement materially affecting the health and safety of himself or others. The maintenance of the action provided herein does not release the landlord from liability under § 55-248.15:1.

D. The landlord may also terminate the rental agreement pursuant to § 55-222 or § 55-248.37 for any other reason not prohibited by law unless the court finds that the primary reason for the termination was retaliation.

INTRODUCED

HB820