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HOUSE BILL NO. 817

Offered January 10, 2024

Prefiled January 9, 2024

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.*

Patrons—McClure, Anthony, Bennett-Parker, Clark, Henson, Lopez, Martinez and Seibold; Senator: Surovell

Referred to Committee on General Laws

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 action 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 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 or any member of a news or media outlet of noncompliance with the lease or this chapter; (iii) exercised or attempted to exercise a right or remedy under 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) pursued an action or administrative remedy against the landlord, or testified against the landlord, in a court or administrative 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.

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 burden of proving retaliatory intent shall be on the tenant. A landlord may not, within six months after the date of an action taken by a tenant as set forth in subsection A, retaliate against the tenant by (i) selectively increasing rent or fees; (ii) selectively decreasing services, selectively enforcing a rule or imposing a different rule on the tenant, or otherwise materially altering the terms of the lease; (iii) threatening, harassing, or coercing the tenant; (iv) bringing an action or threatening to bring an action for possession; (v) terminating a rental agreement pursuant to § 55.1-1253 or 55.1-1410; or (vi) refusing to renew a tenancy for a fixed term under a lease containing a renewal option that is exercisable by the tenant without negotiation with the landlord for any period after the lease would otherwise terminate.

C. Notwithstanding subsections A and B, a landlord may terminate the rental agreement pursuant to § 55.1-1253 or 55.1-1410 and bring an action for possession if shall not be liable for retaliation under this section (i) if the landlord proves that the action was not made for the purposes of retaliation or (ii) in any of the following instances:

1. ~~Violation~~ The landlord terminates the rental agreement and brings an action for possession in response to a violation of the applicable building or housing code that was caused primarily by lack of reasonable care by the tenant, an authorized occupant, or a guest or invitee of the tenant;

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

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

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

5. The landlord terminates the rental agreement and brings an action for possession after notice to terminate the lease pursuant to § 55.1-1253 or 55.1-1410 was given to the tenant and such notice was

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58 *provided before the tenant engaged in an act set forth in subsection A;*

59 *6. The landlord increases rent or fees pursuant to an escalation clause in the lease; or*

60 *7. The landlord decreases services for, or imposes a rule change that applies equally to, all tenants.*

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

63 *D. The landlord may also terminate the rental agreement pursuant to § 55.1-1253 or 55.1-1410 for*
64 *any other reason not prohibited by law unless the court finds that the reason for the termination was*
65 *retaliation. In addition to other remedies provided by law, if the landlord violates the provisions of this*
66 *section, the tenant (i) shall be entitled to recovery of actual damages, court costs, and reasonable*
67 *attorney fees and (ii) may assert retaliation as a defense in any action brought against him for*
68 *possession.*

69 **§ 55.1-1314. Retaliatory conduct prohibited.**

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

83 *B. The landlord shall be deemed to have knowledge of a fact if he has actual knowledge of it, he*
84 *has received a notice or notification of it, or, from all the facts and circumstances known to him at the*
85 *time in question, he has reason to know that it exists. A landlord may not, within six months after the*
86 *date of an action taken by a tenant as set forth in subsection A, retaliate against the tenant by (i)*
87 *selectively increasing rent or fees; (ii) selectively decreasing services, selectively enforcing a rule or*
88 *imposing a different rule on the tenant, or otherwise materially altering the terms of the lease; (iii)*
89 *threatening, harassing, or coercing the tenant; (iv) bringing an action or threatening to bring an action*
90 *for possession; (v) terminating a rental agreement pursuant to § 55.1-1253 or 55.1-1410; or (vi)*
91 *refusing to renew a tenancy for a fixed term under a lease containing a renewal option that is*
92 *exercisable by the tenant without negotiation with the landlord for any period after the lease would*
93 *otherwise terminate.*

94 *C. Notwithstanding the provisions of subsections A and B, a A landlord may terminate the rental*
95 *agreement pursuant to subsection A of § 55.1-1308 and bring an action for possession if shall not be*
96 *liable for retaliation under this section (i) if the landlord proves that the action was not made for the*
97 *purposes of retaliation or (ii) in any of the following instances:*

98 *1. Violation The landlord terminates the rental agreement and brings an action for possession in*
99 *response to a violation of the applicable building and or housing code that was caused primarily by*
100 *lack of reasonable care by the tenant, a member of the tenant's household an authorized occupant, or a*
101 *guest or invitee of the tenant;*

102 *2. The landlord terminates the rental agreement and brings an action for possession in response to*
103 *the tenant is being in default in rent at the time the action for possession is filed; or*

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

107 *4. The landlord terminates the rental agreement and brings an action for possession in response to*
108 *the tenant is being in default of a provision of the rental agreement materially affecting the health and*
109 *safety of the tenant or others;*

110 *5. The landlord terminates the rental agreement and brings an action for possession after notice to*
111 *terminate the lease pursuant to § 55.1-1308 or 55.1-1410 was given to the tenant and such notice was*
112 *provided before the tenant engaged in an act set forth in subsection A;*

113 *6. The landlord increases rent or fees pursuant to an escalation clause in the lease; or*

114 *7. The landlord decreases services for, or imposes a rule change that applies equally to, all tenants.*

115 *The maintenance of the action provided in this section does not release the landlord from liability*
116 *under § 55.1-1302.*

117 *D. In addition to other remedies provided by law, if the landlord violates the provisions of this*
118 *section, the tenant (i) shall be entitled to recovery of actual damages, court costs, and reasonable*
119 *attorney fees and (ii) may assert retaliation as a defense in any action brought against him for*

120 *possession.*