

HOUSE BILL 670

N1

11r1576
CF SB 620

By: **Delegates Frush, Beidle, Bobo, Glenn, and Niemann**

Introduced and read first time: February 9, 2011

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2011

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Retaliatory Actions – Landlords and Mobile Home Park**
3 **Owners**

4 FOR the purpose of altering the actions that a landlord is prohibited from taking
5 against a tenant for certain reasons; altering the reference to certain prohibited
6 actions of a landlord; authorizing a tenant to raise a retaliatory action of a
7 landlord in defense to an action for possession or ~~in a~~ as an affirmative claim for
8 certain damages; creating a certain rebuttable presumption in an action by or
9 ~~against a tenant under certain circumstances;~~ altering the judgment that a
10 court may enter against a landlord or a tenant under certain circumstances;
11 altering the conditions of certain relief; altering the circumstances under which
12 certain actions by a landlord may not be deemed to be retaliatory; altering the
13 right of a landlord or tenant to terminate or not renew a tenancy; altering the
14 actions that a mobile home park owner is prohibited from taking against a
15 resident for certain reasons; altering the reference to certain prohibited actions
16 of a park owner; authorizing a resident to raise a retaliatory action of a park
17 owner in defense to an action for possession or ~~in a~~ as an affirmative claim for
18 certain damages; creating a certain rebuttable presumption in an action by or
19 ~~against a resident under certain circumstances;~~ altering the judgment that a
20 court may enter against a park owner under certain circumstances; altering the
21 circumstances under which certain actions by a park owner may not be deemed
22 to be retaliatory; altering the right of a park owner or resident to terminate or
23 not renew a rental agreement; providing that this Act shall supersede a
24 comparable retaliatory action ordinance enacted by a county under certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 circumstances; making technical and stylistic changes; and generally relating to
2 retaliatory actions by landlords and mobile home park owners.

3 BY repealing and reenacting, with amendments,
4 Article – Real Property
5 Section 8–208.1 and 8A–1301
6 Annotated Code of Maryland
7 (2010 Replacement Volume and 2010 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article – Real Property**

11 8–208.1.

12 (a) (1) [No] **FOR ANY REASON LISTED IN PARAGRAPH (2) OF THIS**
13 **SUBSECTION, A landlord [shall] OF ANY RESIDENTIAL PROPERTY MAY NOT:**

14 (I) [evict] **BRING OR THREATEN TO BRING AN ACTION FOR**
15 **POSSESSION AGAINST a tenant [of any residential property or];**

16 (II) [arbitrarily] **ARBITRARILY** increase the rent or decrease
17 the services to which [the] A tenant has been entitled; **OR**

18 (III) ~~REFUSE TO RENEW A TENANCY~~ **TERMINATE A PERIODIC**
19 **TENANCY.**

20 (2) **A LANDLORD MAY NOT TAKE AN ACTION THAT IS LISTED**
21 **UNDER PARAGRAPH (1) OF THIS SUBSECTION** for any of the following reasons:

22 [(1)] (I) [Solely because] **BECAUSE** the tenant or the tenant's agent
23 has [filed] ~~MADE~~ **PROVIDED WRITTEN OR ACTUAL NOTICE OF** a good faith
24 [written] complaint[, or complaints, with] **ABOUT AN ALLEGED VIOLATION OF THE**
25 **LEASE, VIOLATION OF LAW, OR CONDITION ON THE LEASED PREMISES THAT IS A**
26 **SUBSTANTIAL THREAT TO THE HEALTH OR SAFETY OF OCCUPANTS TO:**

27 1. [the] **THE** landlord; or

28 2. [with any] **ANY** public agency [or agencies] against
29 the landlord;

30 [(2)] (II) [Solely because] **BECAUSE** the tenant or the tenant's agent
31 has:

1 1. [~~filed~~] **FILED** a lawsuit[, or lawsuits,] against the
2 landlord; or

3 2. **TESTIFIED OR PARTICIPATED IN A LAWSUIT**
4 **INVOLVING THE LANDLORD; OR**

5 [(3)] **(III)** [~~Solely because~~] **BECAUSE** the tenant ~~is a member or~~
6 ~~organizer of~~ **HAS PARTICIPATED IN** any tenants' organization.

7 (b) **(1)** [Evictions described in subsection (a) of this section shall be called
8 "retaliatory evictions".] **A LANDLORD'S VIOLATION OF SUBSECTION (A) OF THIS**
9 **SECTION IS A "RETALIATORY ACTION".**

10 **(2)** **A TENANT MAY RAISE A RETALIATORY ACTION OF A**
11 **LANDLORD IN:**

12 **(I)** **IN DEFENSE TO AN ACTION FOR POSSESSION; OR IN A**
13 **CLAIM FOR DAMAGES**

14 **(II)** **AS AN AFFIRMATIVE CLAIM FOR DAMAGES RESULTING**
15 **FROM A RETALIATORY ACTION OF A LANDLORD OCCURRING DURING A**
16 **TENANCY.**

17 ~~**(c)** **(1)** **IN THIS SUBSECTION, "REBUTTABLE PRESUMPTION" MEANS**~~
18 ~~**THAT THE TRIER OF FACT MUST FIND THE EXISTENCE OF A FACT PRESUMED**~~
19 ~~**UNLESS AND UNTIL EVIDENCE IS INTRODUCED THAT WOULD SUPPORT A**~~
20 ~~**FINDING OF THE NONEXISTENCE OF THE FACT.**~~

21 ~~**(2)** **IN AN ACTION BY OR AGAINST A TENANT:**~~

22 ~~**(i)** **EVIDENCE THAT THE TENANT ENGAGED IN A**~~
23 ~~**PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION**~~
24 ~~**WITHIN 6 MONTHS BEFORE AN ALLEGED RETALIATORY ACTION OCCURRED**~~
25 ~~**CREATES A REBUTTABLE PRESUMPTION THAT THE LANDLORD'S CONDUCT**~~
26 ~~**VIOLATED SUBSECTION (A) OF THIS SECTION; AND**~~

27 ~~**(ii)** **A REBUTTABLE PRESUMPTION DOES NOT ARISE IF THE**~~
28 ~~**TENANT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2)**~~
29 ~~**OF THIS SECTION AFTER RECEIVING NOTICE OF A PROPOSED RENT INCREASE**~~
30 ~~**OR DIMINUTION OF SERVICES.**~~

31 ~~**{(c)}**~~ ~~**(D)**~~ (1) If in any [eviction] proceeding the [judgment be] **COURT**
32 **FINDS** in favor of the tenant [for any of the aforementioned defenses] **BECAUSE THE**
33 **LANDLORD ENGAGED IN A RETALIATORY ACTION**, the court may enter judgment

1 **AGAINST THE LANDLORD** for **DAMAGES NOT TO EXCEED THE EQUIVALENT OF 3**
 2 **MONTHS' RENT**, reasonable attorney fees, and court costs [against the landlord].

3 (2) If in any [eviction] proceeding the court finds that a tenant's
 4 assertion of a retaliatory [eviction defense] **ACTION** was in bad faith or without
 5 substantial justification, the court may enter judgment **AGAINST THE TENANT** for
 6 **DAMAGES NOT TO EXCEED THE EQUIVALENT OF 3 MONTHS' RENT**, reasonable
 7 attorney fees, and court costs [against the tenant].

8 ~~[(d)]~~ The relief provided under this section is conditioned upon:

9 **(1) THE TENANT BEING CURRENT ON THE RENT DUE AND OWING**
 10 **TO THE LANDLORD AT THE TIME OF THE ALLEGED RETALIATORY ACTION,**
 11 **UNLESS THE TENANT WITHHOLDS RENT IN ACCORDANCE WITH THE LEASE, §**
 12 **8-211 OF THIS SUBTITLE, OR A COMPARABLE LOCAL ORDINANCE; AND**

13 **(2) IF THE ALLEGED RETALIATORY ACTION IS A LANDLORD'S**
 14 **TERMINATION OF A PERIODIC TENANCY;**

15 ~~[(1)]~~ **(I)** In the case of tenancies measured by a period of one month
 16 or more, the court having not entered against the tenant more than 3 judgments of
 17 possession for rent due and unpaid in the 12-month period immediately prior to the
 18 initiation of the action by the tenant or by the landlord; **OR**

19 ~~[(2)]~~ **(II)** In the case of tenancies requiring the weekly payment of
 20 rent, the court having not entered against the tenant more than 5 judgments of
 21 possession for rent due and unpaid in the 12-month period immediately prior to the
 22 initiation of the action by the tenant or by the landlord, or, if the tenant has lived on
 23 the premises 6 months or less, the court having not entered against the tenant 3
 24 judgments of possession for rent due and unpaid.}]

25 [(e) No eviction shall be deemed to be a "retaliatory eviction" for purposes of
 26 this section upon the expiration of a period of 6 months following the determination of
 27 the merits of the initial case by a court (or administrative agency) of competent
 28 jurisdiction.]

29 **(E) AN ACTION BY A LANDLORD MAY NOT BE DEEMED TO BE**
 30 **RETALIATORY FOR PURPOSES OF THIS SECTION IF THE ALLEGED RETALIATORY**
 31 **ACTION OCCURS MORE THAN 6 MONTHS AFTER A TENANT'S ACTION THAT IS**
 32 **PROTECTED UNDER SUBSECTION (A)(2) OF THIS SECTION.**

33 ~~[(f)]~~ ~~[(E)]~~ [Nothing] **AS LONG AS A LANDLORD'S ~~NONRENEWAL~~**
 34 **TERMINATION OF A TENANCY IS NOT THE RESULT OF A RETALIATORY ACTION,**
 35 **NOTHING** in this section may be interpreted to alter the landlord's or the tenant's
 36 rights to terminate or not renew a tenancy ~~governed by a written lease for a stated~~

1 ~~term of greater than 1 month at the expiration of the term or at any other time as the~~
 2 ~~parties may specifically agree.~~

3 ~~[(g)] (F)~~ [In the event] **IF** any county [or Baltimore City shall have] **HAS**
 4 enacted **OR ENACTS** an ordinance comparable in subject matter to this section, [that
 5 ordinance] **THIS SECTION** shall supersede the provisions of [this section] **THE**
 6 **ORDINANCE TO THE EXTENT THAT THE ORDINANCE PROVIDES LESS**
 7 **PROTECTION TO A TENANT.**

8 8A-1301.

9 (a) (1) [A] **FOR ANY REASON LISTED IN PARAGRAPH (2) OF THIS**
 10 **SUBSECTION, A park owner may not:**

11 (I) [evict] **BRING OR THREATEN TO BRING AN ACTION FOR**
 12 **POSSESSION AGAINST** a resident [or];

13 (II) [arbitrarily] **ARBITRARILY** increase the rent or decrease
 14 the services to which [the] A resident has been entitled; **OR**

15 (III) ~~REFUSE TO RENEW A RENTAL AGREEMENT~~ **TERMINATE**
 16 **A PERIODIC TENANCY.**

17 (2) **A PARK OWNER MAY NOT TAKE AN ACTION THAT IS LISTED**
 18 **UNDER PARAGRAPH (1) OF THIS SUBSECTION** for any of the following reasons:

19 [(1)] (I) [Solely because] **BECAUSE** the resident or [his] **THE**
 20 **RESIDENT'S** agent has [filed] ~~MADE~~ **PROVIDED WRITTEN OR ACTUAL NOTICE OF** a
 21 [written] **GOOD FAITH** complaint[, or complaints, with] **ABOUT AN ALLEGED**
 22 **VIOLATION OF THE RENTAL AGREEMENT, VIOLATION OF LAW, OR CONDITION ON**
 23 **THE LEASED PREMISES THAT IS A SUBSTANTIAL THREAT TO THE HEALTH OR**
 24 **SAFETY OF OCCUPANTS TO:**

25 1. [the] **THE** park owner; or

26 2. [with any] **ANY** public agency [or agencies] against
 27 the park owner;

28 [(2)] (II) [Solely because] **BECAUSE** the resident or [his] **THE**
 29 **RESIDENT'S** agent has:

30 1. [filed] **FILED** a lawsuit[, or lawsuits,] against the
 31 park owner; or

1 **2. TESTIFIED OR PARTICIPATED IN A LAWSUIT**
 2 **INVOLVING THE PARK OWNER; OR**

3 ~~[(3)]~~ **(III)** ~~[Solely because]~~ **BECAUSE** the resident ~~is a member or~~
 4 ~~organizer of~~ **HAS PARTICIPATED IN** any tenant's organization.

5 (b) **(1)** [Evictions described in subsection (a) of this section shall be called
 6 retaliatory evictions.] **A PARK OWNER'S VIOLATION OF SUBSECTION (A) OF THIS**
 7 **SECTION IS A "RETALIATORY ACTION".**

8 **(2)** **A RESIDENT MAY RAISE A RETALIATORY ACTION OF A PARK**
 9 **OWNER IN:**

10 **(I)** **IN DEFENSE TO AN ACTION FOR POSSESSION; OR IN A**
 11 **CLAIM FOR DAMAGES**

12 **(II)** **AS AN AFFIRMATIVE CLAIM FOR DAMAGES RESULTING**
 13 **FROM A RETALIATORY ACTION OF A PARK OWNER OCCURRING DURING A**
 14 **TENANCY.**

15 ~~(c) (1) IN THIS SUBSECTION, "REBUTTABLE PRESUMPTION" MEANS~~
 16 ~~THAT THE TRIER OF FACT MUST FIND THE EXISTENCE OF A FACT PRESUMED~~
 17 ~~UNLESS AND UNTIL EVIDENCE IS INTRODUCED THAT WOULD SUPPORT A~~
 18 ~~FINDING OF THE NONEXISTENCE OF THE FACT.~~

19 ~~(2) IN AN ACTION BY OR AGAINST A RESIDENT:~~

20 ~~(i) EVIDENCE THAT THE RESIDENT ENGAGED IN A~~
 21 ~~PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION~~
 22 ~~WITHIN 6 MONTHS BEFORE AN ALLEGED RETALIATORY ACTION OCCURRED~~
 23 ~~CREATES A REBUTTABLE PRESUMPTION THAT THE PARK OWNER'S CONDUCT~~
 24 ~~VIOLATED SUBSECTION (A) OF THIS SECTION; AND~~

25 ~~(ii) A REBUTTABLE PRESUMPTION DOES NOT ARISE IF THE~~
 26 ~~RESIDENT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION~~
 27 ~~(A)(2) OF THIS SECTION AFTER RECEIVING NOTICE OF A PROPOSED RENT~~
 28 ~~INCREASE OR DIMINUTION OF SERVICES.~~

29 ~~{c} (d)~~ If in any [eviction] proceeding the [judgment is] **COURT FINDS** in
 30 favor of the resident [for any of the aforementioned defenses] **BECAUSE THE PARK**
 31 **OWNER ENGAGED IN A RETALIATORY ACTION**, the court may enter judgment
 32 **AGAINST THE PARK OWNER** for **DAMAGES NOT TO EXCEED THE EQUIVALENT OF 3**
 33 **MONTHS' RENT**, reasonable attorney's fees, and court costs [against the park owner].

1 [(d) An eviction may not be deemed to be a “retaliatory eviction” for purposes
2 of this section upon the expiration of a period of 6 months following the determination
3 of the merits of the initial case by a court or administrative agency of competent
4 jurisdiction.]

5 **(D) AN ACTION BY A PARK OWNER MAY NOT BE DEEMED TO BE**
6 **RETALIATORY FOR PURPOSES OF THIS SECTION IF THE ALLEGED RETALIATORY**
7 **ACTION OCCURS MORE THAN 6 MONTHS AFTER A RESIDENT’S ACTION THAT IS**
8 **PROTECTED UNDER SUBSECTION (A)(2) OF THIS SECTION.**

9 (e) [Nothing] ~~AS LONG AS A PARK OWNER’S NONRENEWAL OF A RENTAL~~
10 ~~AGREEMENT~~ **TERMINATION OF A TENANCY IS NOT THE RESULT OF A**
11 **RETALIATORY ACTION, NOTHING** in this section may be interpreted to alter the park
12 owner’s or the resident’s rights arising from breach of any provision of a rental
13 agreement or rule, or either party’s right to terminate or not renew a rental agreement
14 pursuant to the terms of the rental agreement or the provisions of other applicable
15 law.

16 **(F) IF ANY COUNTY HAS ENACTED OR ENACTS AN ORDINANCE**
17 **COMPARABLE IN SUBJECT MATTER TO THIS SECTION, THIS SECTION SHALL**
18 **SUPERSEDE THE PROVISIONS OF THE ORDINANCE TO THE EXTENT THAT THE**
19 **ORDINANCE PROVIDES LESS PROTECTION TO A RESIDENT.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.