

Chapter 265

(House Bill 670)

AN ACT concerning

Real Property – Retaliatory Actions – Landlords and Mobile Home Park Owners

FOR the purpose of altering the actions that a landlord is prohibited from taking against a tenant for certain reasons; altering the reference to certain prohibited actions of a landlord; authorizing a tenant to raise a retaliatory action of a landlord in defense to an action for possession or ~~in a~~ as an affirmative claim for certain damages; ~~creating a certain rebuttable presumption in an action by or against a tenant under certain circumstances;~~ altering the judgment that a court may enter against a landlord or a tenant under certain circumstances; altering the conditions of certain relief; altering the circumstances under which certain actions by a landlord may not be deemed to be retaliatory; altering the right of a landlord or tenant to terminate or not renew a tenancy; altering the actions that a mobile home park owner is prohibited from taking against a resident for certain reasons; altering the reference to certain prohibited actions of a park owner; authorizing a resident to raise a retaliatory action of a park owner in defense to an action for possession or ~~in a~~ as an affirmative claim for certain damages; ~~creating a certain rebuttable presumption in an action by or against a resident under certain circumstances;~~ altering the judgment that a court may enter against a park owner under certain circumstances; altering the circumstances under which certain actions by a park owner may not be deemed to be retaliatory; altering the right of a park owner or resident to terminate or not renew a rental agreement; providing that this Act shall supersede a comparable retaliatory action ordinance enacted by a county under certain circumstances; making technical and stylistic changes; and generally relating to retaliatory actions by landlords and mobile home park owners.

BY repealing and reenacting, with amendments,

Article – Real Property

Section 8–208.1 and 8A–1301

Annotated Code of Maryland

(2010 Replacement Volume and 2010 Supplement)

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

Article – Real Property

8–208.1.

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

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

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

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

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

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

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

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

1. [filed] **FILED** a lawsuit[, or lawsuits,] against the landlord; or
2. **TESTIFIED OR PARTICIPATED IN A LAWSUIT INVOLVING THE LANDLORD; OR**

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

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

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

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

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

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

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

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

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

~~{(c)}~~ ~~(D)~~ (1) If in any [eviction] proceeding the [judgment be] COURT FINDS in favor of the tenant [for any of the aforementioned defenses] BECAUSE THE LANDLORD ENGAGED IN A RETALIATORY ACTION, the court may enter judgment AGAINST THE LANDLORD for DAMAGES NOT TO EXCEED THE EQUIVALENT OF 3 MONTHS' RENT, reasonable attorney fees, and court costs [against the landlord].

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

{(d)} The relief provided under this section is conditioned upon:

(1) THE TENANT BEING CURRENT ON THE RENT DUE AND OWING TO THE LANDLORD AT THE TIME OF THE ALLEGED RETALIATORY ACTION,

UNLESS THE TENANT WITHHOLDS RENT IN ACCORDANCE WITH THE LEASE, § 8-211 OF THIS SUBTITLE, OR A COMPARABLE LOCAL ORDINANCE; AND

(2) IF THE ALLEGED RETALIATORY ACTION IS A LANDLORD'S TERMINATION OF A PERIODIC TENANCY:

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

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

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

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

~~[(f)] ~~(F)~~ [Nothing] AS LONG AS A LANDLORD'S ~~NONRENEWAL TERMINATION~~ OF A TENANCY IS NOT THE RESULT OF A RETALIATORY ACTION, NOTHING in this section may be interpreted to alter the landlord's or the tenant's rights to terminate or not renew a tenancy governed by a written lease for a stated term of greater than 1 month at the expiration of the term or at any other time as the parties may specifically agree.~~

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

8A-1301.

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

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

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

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

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

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

1. [the] THE park owner; or
2. [with any] ANY public agency [or agencies] against the park owner;

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

1. [filed] FILED a lawsuit[, or lawsuits,] against the park owner; or
2. TESTIFIED OR PARTICIPATED IN A LAWSUIT INVOLVING THE PARK OWNER; OR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 10, 2011.