

ORDINANCE NO. ____-2024

AN ORDINANCE CREATING SECTION 12-55 (1) OF THE CODE OF ORDINANCES RELATED TO THE LANDLORD-TENANT ACT TO PROHIBIT LANDLORD RETALIATION FOR TENANT COMPLAINTS TO A GOVERNMENTAL AGENCY; AN ORDINANCE CREATING SECTION 12-55 (2) OF THE CODE OF ORDINANCES RELATED TO THE LANDLORD-TENANT ACT TO ALLOW TENANT REMEDIES FOR RETALITIAION; AN ORDINANCE CREATING SECTION 12-55 (3) OF THE CODE OF ORDINANCES RELATED TO THE LANDLORD-TENANT ACT FOR EXCLUSIONS FOR RETALITIAION; AN ORDINANCE CREATING SECTION 12-55 (4) OF THE CODE OF ORDINANCES RELATED TO THE LANDLORD-TENANT ACT TO STATE LANDLORD LIABILITY PURSUANT TO KRS 383.625(2); AND AN ORDINANCE CREATING SECTION 12-55 (5) OF THE CODE OF ORDINANCES RELATED TO THE LANDLORD-TENANT ACT TO SPECIFY TENANT REMEDIES FOR RETALIATION.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

WHEREAS, the Council adopted the Landlord-Tenant Act in Revised Code of Ordinances section 12-54; and

WHEREAS, it is the Council's desire to specify a tenant's rights for reporting a code violation pursuant to state law.

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Section 12-55(1) of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows:

- (1) Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:
 - (a) 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 and safety;
 - (b) The tenant has complained to the landlord of a violation under KRS 383.595;
 - (c) The tenant has organized or become a member of a tenant's union or similar organization.

Section 2 - That Section 12-55(2) of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows:

- (2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in section (5) and has a defense in any retaliatory action against him for possession. In an action by or against the tenant, evidence of a complaint within one (1) year before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation.

The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

Section 3 - That Section 12-55(3) of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows:

- (3) Notwithstanding subsections (1) and (2) of this section, a landlord may bring an action for possession if:
 - (a) The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in his household or upon the premises with his consent;
 - (b) The tenant is in default in rent; or
 - (c) 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.

Section 4 - That Section 12-55(4) of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows:

- (4) The maintenance of an action under subsection (3) of this section does not release the landlord from liability under KRS 383.625(2)

Section 5 - That Section 12-55(5) of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows:

- (5) If a landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water electric, gas, or other essential service, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than three (3) months periodic rent and a reasonable attorney's fee. If the rental agreement is terminated the landlord shall return all prepaid rent.

Section 6 - That this Ordinance shall not be construed in a manner so as to conflict with Kentucky's Landlord-Tenant Act, and the sole means of enforcement of this Ordinance shall be as provided in that Act.

Section 7 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

