I move to amend HB2109 Of the printed Bill
Page __________ Section __________ Lines __________ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____________________________

Amendment submitted by: Daniel Pae

______________________________________

Reading Clerk
STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

PROPOSED COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2109

By: Pae

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to landlord and tenant; prohibiting landlords from retaliating against tenants in certain circumstances; defining forms of retaliation; providing that a landlord may increase rent or decrease services under certain circumstances; providing remedy procedures for tenants; providing examples of nonretaliatory actions; providing that a landlord shall retain the right to recovery if done in good faith; providing when raising rent shall not be considered retaliatory; amending 41 O.S. 2021, Section 121, as amended by Section 1, Chapter 230, O.S.L. 2022 (41 O.S. Supp. 2022, Section 121), which relates to landlord's breach of a rental agreement; providing a tenant may bring an action to enforce an obligation of a landlord; providing guidelines on when a tenant can bring an action to enforce an obligation of a landlord; providing types of relief; providing when a landlord's liability for damages begins; modifying the amount a tenant may be reimbursed by the landlord for making repairs; prohibiting an action for possession based on nonpayment of rent with certain exceptions; requiring a landlord to certify upon delivery that the property meets the standard of habitability and that the landlord is responsible for maintaining that standard; modifying housing requirements that a landlord must provide; providing the court discretion to award damages; providing when tenant possesses rights; providing for codification; and providing an effective date.
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 137 of Title 41, unless there is created a duplication in numbering, reads as follows:

A. 1. Except as provided in this section or as otherwise provided by law, a landlord may not retaliate against a tenant by increasing rent, decreasing services, by bringing or threatening to bring an action for possession, or by causing a termination of the rental agreement after the landlord has knowledge that:

   a. the tenant has made a complaint to a governmental agency charged with the enforcement of building or housing code violations related to health or safety,

   b. the tenant has made a complaint to or filed an action against the landlord for a violation of any provision of Title 41 of the Oklahoma Statutes,

   c. the tenant has given the landlord a notice to repair or exercise a remedy under Title 41 of the Oklahoma Statutes,

   d. the tenant has organized or become a member of a tenants' organization, or

   e. the tenant has testified in a court proceeding against the landlord.
2. However, the provisions of this section shall not be construed to prevent the landlord from increasing rent nor from decreasing services in a manner that applies equally to all tenants.

B. If a landlord acts in violation of this section, the tenant is entitled to the applicable remedies provided for in Title 41 of the Oklahoma Statutes, including recovery of actual damages plus reasonable attorney fees, and may assert such retaliation as a defense in any action against the landlord for possession. Any action taken by a landlord under subsection A of this section within six (6) months of a protected action of the tenant shall be presumed retaliatory, unless proven otherwise by the landlord. Six (6) months after the protected action, the burden of proving retaliatory intent shall be on the tenant.

C. Actions by a landlord shall not be considered retaliatory if:

1. The tenant is in arrears with regard to his or her rental agreement;

2. The tenant creates conditions within the unit which are unsafe or destructive; or

3. An unforeseen action causes the landlord to comply with a code which would deprive the tenant of the right to continue using the unit.
D. The landlord shall retain the right to recovery of the premises if that recovery was done in good faith, which actions shall include:

1. The tenant using the unit for an illegal or illicit purpose or otherwise creating a nuisance on the property;

2. The landlord recovering possession of the unit from the tenant in order to use the unit as a primary residence for either the landlord or the landlord's immediate family;

3. The landlord recovering possession of the unit for the purposes of substantially altering, remodeling, or demolishing the unit; or

4. When the unit is sold and the purchaser intends to use it as a primary residence for either the landlord or a member of the landlord's immediate family.

E. Increases in rent shall not be considered retaliation if:

1. Compliance with a health department or other agency directive creates a financial burden on the landlord;

2. Rent is increased to mitigate the burden of a substantial increase in property taxes;

3. Substantial improvements to the unit that affects a tax depreciation on the landlord's federal tax bill; or

4. Rent is increased, upon renewal of the lease, which is in line with an increase in rents by other landlords in similar situations or units.
SECTION 2.  AMENDATORY  
41 O.S. 2021, Section 121, as amended by Section 1, Chapter 230, O.S.L. 2022 (41 O.S. Supp. 2022, Section 121), is amended to read as follows:

Section 121. A. Except as otherwise provided in this act, if there is a material noncompliance by the landlord with the terms of the rental agreement or a noncompliance with any of the provisions of Section 118 of this title which noncompliance materially affects health or safety, the tenant may deliver to the landlord a written notice specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice if the breach is not remedied within fourteen (14) days, and thereafter the rental agreement shall so terminate as provided in the notice unless the landlord adequately remedies the breach within the time specified.

1. A tenant may not bring an action under this title unless the following conditions are met:
   a. the tenant gives the landlord written notice of the landlord's noncompliance with a provision of this title,
   b. the landlord has been given a reasonable amount of time, not to exceed fourteen (14) days, to make repairs or provide a remedy of the condition described.
in the tenant's notice. The tenant may not prevent
the landlord from having access to the rental premises
to make repairs or provide a remedy to the condition
described in the tenant's notice, and
c. the landlord fails or refuses to repair or remedy the
condition described in the tenant's notice.

2. If the tenant is the prevailing party in an action under
this section, the tenant may obtain any of the following, if
appropriate under the circumstances:
   a. actual damages and consequential damages,
   b. attorney fees and court costs,
   c. injunctive relief, and
   d. any other remedy appropriate under the circumstances.

3. The landlord's liability for damages begins when:
   a. the landlord has notice or actual knowledge of
      noncompliance, and
   b. the landlord has:
      (1) refused to remedy the noncompliance, or
      (2) failed to remedy the noncompliance within a
          reasonable amount of time, not to exceed fourteen
          (14) days, following the actual knowledge.

B. Except as otherwise provided in this act, if there is a
material noncompliance by the landlord with any of the terms of the
rental agreement or any of the provisions of Section 118 of this
title which noncompliance materially affects health and the breach is remediable by repairs, the reasonable cost of which is equal to or less than one month's rent, the tenant may notify the landlord in writing of his or her intention to correct the condition at the landlord's expense after the expiration of fourteen (14) days. If the landlord fails to comply within said fourteen (14) days, or as promptly as conditions require in the case of an emergency, the tenant may thereafter cause the work to be done in a workmanlike manner and, after submitting to the landlord an itemized statement, deduct from his or her rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection, in which event the rental agreement shall not terminate by reason of that breach.

No action for possession on behalf of the landlord based on nonpayment of rent shall be maintained regarding the premises leased or rented for purposes other than for vacation or recreation, if such premises are in substantial violation of standards of habitability outlined in subsection C of this section, provided that:

1. The tenant proves by a preponderance of the evidence that, while not in arrears in rent, he or she provided written notice of the violation to the person to whom he or she customarily pays rent;
2. The landlord failed to correct the violations within fourteen (14) days of the receipt of such written notice or, in an emergency, as promptly as conditions require;

3. The violations were not caused by the tenant, a member of the tenant's family, or other persons or animals on the premises with the tenant's consent; and

4. Necessary repairs have not been prevented due to extreme weather conditions or due to the failure of the tenant to allow the landlord reasonable access to the premises.

C. Except as otherwise provided in this act, if, contrary to the rental agreement or Section 118 of this title, the landlord willfully or negligently fails to supply heat, running water, hot water, electric, gas or other essential service, the tenant may give written notice to the landlord specifying the breach and thereafter may:

1. Upon written notice, immediately terminate the rental agreement; or

2. Procure reasonable amounts of heat, hot water, running water, electric, gas or other essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent; or

3. Recover damages based upon the diminution of the fair rental value of the dwelling unit landlord's noncompliance at the discretion of the court, including reasonable attorney fees; or
4. Upon written notice, procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

D. Except as otherwise provided in this act, if there is a noncompliance by the landlord with the terms of the rental agreement or Section 118 of this title, which noncompliance renders the dwelling unit uninhabitable or poses an imminent threat to the health and safety of any occupant of the dwelling unit and which noncompliance is not remedied as promptly as conditions require, the tenant may immediately terminate the rental agreement upon written notice to the landlord which notice specifies the noncompliance.

E. All rights of the tenant under this section do not arise until he or she has given written notice to the landlord or if the condition complained of was caused by the deliberate or negligent act or omission of the tenant, a member of his or her family, his or her animal or pet or other person or animal on the premises with his or her consent.

SECTION 3. This act shall become effective November 1, 2023.

59-1-7291      JL      02/13/23