

### **383.705 Retaliatory conduct.**

- (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.
- (2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in KRS 383.655 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.
- (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.
- (4) The maintenance of an action under subsection (3) of this section does not release the landlord from liability under KRS 383.625(2).

**Effective:** July 13, 1984

**History:** Repealed and reenacted 1984 Ky. Acts ch. 176, sec. 41, effective July 13, 1984. -- Created 1974 Ky. Acts ch. 378, sec. 42.