

Landlord-tenant relations. Prohibits a local unit from regulating certain aspects of a landlord-tenant relationship with respect to privately owned real property located in the unit unless the regulation is authorized by the general assembly. Prohibits a landlord from taking certain retaliatory actions in response to a tenant's engaging in one or more enumerated protected activities. Provides that if a landlord brings a eviction action or an action for possession of the rental premises, the tenant may assert as a defense that: (1) the landlord's suit constitutes a retaliatory act; or (2) the landlord has engaged in one or more other retaliatory acts. Provides that the burden for proving the landlord's retaliatory intent is on the tenant. Prohibits a local unit from adopting or enforcing any ordinance or regulation concerning retaliatory acts by landlords.

Page 7, after line 8, begin a new paragraph and insert:

"SECTION 8. IC 32-31-1-20, AS AMENDED BY P.L.266-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 20. (a) Subject to IC 36-1-3-8.5, this section does not apply to privately owned real property for which government funds or benefits have been allocated from the United States government, the state, or a political subdivision for the express purpose of providing reduced rents to low or moderate income tenants.

(b) A unit (as defined in IC 36-1-2-23) may not regulate rental rates for privately owned real property, through a zoning ordinance or otherwise, unless the regulation is authorized by an act of the general assembly.

(c) A unit (as defined in IC 36-1-2-23) may not regulate, through an ordinance or otherwise, any of the following aspects of a landlord-tenant relationship with respect to privately owned real property located in the unit unless the regulation is authorized by an act of the general assembly:

- (1) The screening process used by a landlord in approving tenants to lease privately owned real property.**
- (2) Security deposits.**
- (3) Lease applications.**
- (4) Leasing terms and conditions.**
- (5) Disclosures concerning the:**
 - (A) property;**
 - (B) lease; or**
 - (C) rights and responsibilities of the parties;****involved in a landlord-tenant relationship.**
- (6) The rights of the parties to a lease.**
- (7) Any fees charged by a landlord.**
- (8) Any other aspects of the landlord-tenant relationship.**

Any ordinance or regulation adopted before July 1, 2020, that violates this subsection is void and unenforceable.

SECTION 9. IC 32-31-8.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

Chapter 8.5. Retaliatory Acts by Landlords

Sec. 1. The definitions in IC 32-31-3 apply throughout this chapter.

Sec. 2. As used in this chapter, "protected activity" means any of the following actions taken by a tenant:

- (1) Complaining to a governmental entity responsible for enforcing an applicable building or housing code about a violation with respect to the rental premises that materially affects health or safety.**
- (2) Making a written complaint:**
 - (A) to the landlord; and**
 - (B) in accordance with the rental agreement or an applicable state statute;****concerning the habitability of the rental premises.**
- (3) Bringing an action against the landlord under IC 32-31-8.**
- (4) Organizing or becoming a member of a tenant's organization.**

(5) Testifying in a court proceeding or **an administrative hearing** against the landlord.

Sec. 3. As used in this chapter, "rental premises" has the meaning set forth in IC 32-31-7-3.

Sec. 4. As used in this chapter, "retaliatory act" means any of the following actions taken by a landlord in response to a tenant's engaging in a protected activity:

- (1) Increasing the amount of the tenant's rent.
- (2) Decreasing, **terminating, or interfering with** services provided to the rental premises.
- (3) Bringing or threatening to bring an action for possession of the rental premises.
- (4) Bringing or threatening to bring an action to:
 - (A) evict the tenant from the rental premises; or
 - (B) otherwise terminate the tenant's rental agreement before the expiration of the term of the rental agreement.

Sec. 5. (a) Subject to subsection (b), and except as provided in subsection (c), a landlord may not engage in a retaliatory act in response to a tenant's engaging in one (1) or more protected activities.

(b) Subsection (a) does not prohibit a landlord from doing any of the following:

- (1) Declining to renew a rental agreement at the conclusion of the term of the rental agreement.
- (2) Increasing a tenant's rent to that which is charged for comparable market rentals, regardless of whether the increase is effective:
 - (A) at the conclusion of the term of the rental agreement; or
 - (B) **if provided for in the rental agreement**, during the term of the rental agreement.
- (3) Subject to applicable law, decreasing or terminating one (1) or more services provided to the rental premises, if those services are decreased or terminated to all tenants on an equal basis.

(c) A landlord may bring an action described in section 4(3) or 4(4) of this chapter (including as a petition for an emergency possessory order under IC 32-31-6) under the following circumstances, or as otherwise authorized by law:

- (1) A violation described in section 2(1) of this chapter is caused primarily by the intentional or negligent acts of, or a lack of reasonable care by:
 - (A) the tenant;
 - (B) an authorized occupant of the rental premises; or
 - (C) a guest or invitee of the tenant.
- (2) The tenant is in default with respect to rent due and has failed to cure the default within the time set forth in:
 - (A) **IC 32-31-1-6**; or
 - (B) the rental agreement.
- (3) Compliance with an applicable building or housing code requires alteration, remodeling, or demolition of the rental premises, such the tenant would be effectively deprived of use of the rental premises.
- (4) The tenant is in noncompliance with a provision of the rental agreement,

and such noncompliance materially affects the health or safety of the tenant or others.

(5) The tenant's rental agreement is for a definite term, and the tenant holds over after expiration of the term.

(6) The landlord's action for possession of the rental premises is made:

(A) in good faith; and

(B) before the tenant engages in a protected activity.

(7) The landlord seeks in good faith to take possession of the rental premises at the end of the term of the tenant's rental agreement in order to:

(A) use the rental premises as the landlord's own abode;

(B) alter, remodel, or demolish the rental premises in a manner that requires the complete displacement of the tenant's household; or

(C) terminate for a period of at least six (6) months the use of the property as a rental unit.

Sec. 6. (a) If a landlord brings an action described in section 4(3) or 4(4) of this chapter, the tenant may assert as a defense that:

(1) the landlord's suit constitutes a retaliatory act; or

(2) the landlord has engaged in one (1) or more other retaliatory acts.

The burden for proving the landlord's retaliatory intent is on the tenant.

(b) If the court finds that the landlord has engaged in a retaliatory act, the tenant is entitled to:

(1) the repayment or credit of up to one (1) month's rent; and

(2) possession of the rental premises under the terms of the rental agreement in effect at the time the action was commenced.

(c) If the court finds that the tenant's asserted defense under this section is without merit or was asserted in bad faith or for the purpose of delaying the landlord's possession of the rental premises, the landlord is entitled to recover actual damages and attorney fees.

Sec. 7. A unit (as defined in IC 36-1-2-23) may not adopt or enforce any:

(1) ordinance; or

(2) regulation;

concerning retaliatory acts by landlords. Any ordinance or regulation adopted before July 1, 2020, that violates this subsection is void and unenforceable."

Renummer all SECTIONS consecutively.

(Reference is to SB 340 as reprinted January 28, 2020.)