Committee Report

February 28, 2024

H. 4158

Introduced by Reps. Pendarvis, M. M. Smith, Bauer and King

S. Printed 02/28/24--H.

Read the first time March 15, 2023

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The committee on House Judiciary

To whom was referred a Bill (H. 4158) to amend the South Carolina Code of Laws by adding Section 27‑40‑350 so as to provide that residential tenants who are victims of certain domestic violence may terminate, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, by striking Section 27-40-350 and inserting:

Section 27-40-350 (A) If a residential tenant is a protected tenant, the tenant may:

(1) terminate the protected tenant’s obligations under a rental agreement within sixty days of the date of the documented qualifying incident; and

(2) not be held liable for penalties or fees that might otherwise be imposed for the termination of the protected tenant’s obligations under a rental agreement within sixty days of the documented qualifying incident.

(B) A protected tenant shall provide the landlord with written notice of the intent to terminate the protected tenant’s obligations under a rental agreement within sixty days after the documented qualifying incident and is entitled to remain at the residence for at least thirty days following the submission of the notice to the landlord. The protected tenant is still responsible for paying rent and other amounts owed, other than any fees imposed for early termination of the rental agreement, during the thirty days before the termination of the protected tenant’s obligations under a rental agreement.

(C) The protected tenant’s obligations as a tenant must continue through the effective date of the termination. Any cotenants on the lease with the protected tenant shall remain responsible for the rent for the balance of the term of the rental agreement. If the perpetrator is the remaining sole tenant obligated on the rental agreement, the landlord may terminate the rental agreement with five days’ written notice and collect actual damages for such termination against the perpetrator.

(D) A landlord:

(1) may not require or force the protected tenant to vacate the residence before the expiration of the thirty days authorized by this section, but may enter into an agreement with the protected tenant to terminate the protected tenant’s obligations under a rental agreement earlier than what is required pursuant to this section; and

(2) is entitled to all remedies available arising from the destruction or damage of the rental unit caused by the protected tenant or permitted by the protected tenant while on the premises with the protected tenant’s permission.

(E) A landlord may not take any retaliatory action against a protected tenant in response to the early termination of the protected tenant’s obligations under a rental agreement pursuant to this section.

(F) A landlord may not terminate a tenancy, fail to renew a tenancy, refuse to enter into a rental agreement, or otherwise retaliate in the rental of a dwelling based substantially on:

(1) the tenant, applicant, or a household member's status as a protected tenant; or

(2) the tenant or applicant having terminated a rental agreement under Section 27-40-350.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Section 27-40-210 of the S.C. Code is amended by adding:

(19) “Protected tenant” means a tenant or household member who is a victim of a qualifying incident.

(20) “Qualifying Incident” means domestic abuse or violence as defined by Chapter 4 of Title 20 or Chapter 25 of Title 16 wherein both the victim and the perpetrator are leaseholders on the same property and the domestic abuse or violence is documented by law enforcement, court, or other federal or state agency records or files.

Renumber sections to conform.

Amend title to conform.

W. NEWTON for Committee.

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 27‑40‑350 SO AS TO PROVIDE THAT RESIDENTIAL TENANTS WHO ARE VICTIMS OF CERTAIN DOMESTIC VIOLENCE MAY TERMINATE A RENTAL AGREEMENT AND TO PROVIDE FOR NECESSARY REQUIREMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Subarticle IV, Chapter 40, Title 27 of the S.C. Code is amended by adding:

Section 27‑40‑350. (A) If a residential tenant is a victim of domestic violence, dating violence, sexual assault, stalking, or other criminal sexual assault, the tenant may:

(1) terminate the tenant’s obligations under a rental agreement within sixty days of the date of the documented incident of domestic violence, dating violence, sexual assault, or stalking due to safety issues. Accepted documentation includes a police report, letter from a domestic violence agency, under penalty of perjury, conviction order, or a restraining order; and

(2) not be held liable for penalties or fees that might otherwise be imposed for the termination of the tenant’s obligations under a rental agreement within sixty days of the documented incident of domestic violence, dating violence, sexual assault, or stalking due to safety issues;

(B) A tenant shall provide the landlord with written notice of the intent to terminate the tenant’s obligations under a rental agreement within sixty days after the documented incident and is entitled to remain at the residence for at least sixty days following the submission of the notice to the landlord. The tenant is still responsible for paying rent and other amounts owed, other than any fees imposed for early termination of the rental agreement, during the sixty days before the termination of the tenant’s obligations under a rental agreement.

(C) The victim’s obligations as a tenant must continue through the effective date of the termination. Any cotenants on the lease with the victim shall remain responsible for the rent for the balance of the term of the rental agreement. If the perpetrator is the remaining sole tenant obligated on the rental agreement, the landlord may terminate the rental agreement and collect actual damages for such termination against the perpetrator.

(D) A landlord:

(1) may not require or force the victim to vacate the residence before the expiration of the sixty days authorized by this section, but may enter into an agreement with the victim to terminate the tenant’s obligations under a rental agreement earlier than what is required pursuant to this section; and

(2) is entitled to all remedies available arising from the destruction or damage of the rental unit caused by the tenant or permitted by the tenant while on the premises with the tenant’s permission.

(E) A landlord may not take any retaliatory action against a victim in response to the early termination of the tenant’s obligations under a rental agreement.

(F)(1) A landlord shall consider evidence of an applicant’s status as a victim of domestic violence to alleviate any adverse effect of an otherwise qualified applicant’s low credit score. To establish the applicant’s status as a victim of domestic violence, an applicant may submit to the landlord:

(a) a letter from a sexual and domestic violence program, a housing counselor certified by the U.S. Department of Housing and Urban Development, or an attorney representing the applicant;

(b) a law enforcement incident report; or

(c) a court order.

(2) If a landlord does not comply with this section, the applicant may recover actual damages, including all amounts paid to the landlord as an application fee, application deposit, or reimbursement for any of the landlord’s out‑of‑pocket expenses that were charged to the prospective tenant, along with attorney fees.

SECTION 2. This act takes effect upon approval by the Governor.

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