

1 AN ACT relating to landlords and tenants.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) Except as provided in subsection (2) of this section, a landlord who owns
6 residential rental property and has been cited by a local code enforcement board
7 for a violation of a housing, building, plumbing, electrical, fire, or nuisance
8 ordinance of the local government in which the property is located shall be civilly
9 liable to the tenant or tenants occupying the property for damages as provided in
10 subsection (3) of this section if the landlord does not cure the violation within
11 ninety (90) days of the citation.

12 (2) (a) 1. If a landlord has not cured the violation under subsection (1) of this
13 section within ninety (90) days, and a tenant has filed a civil action
14 under this section, the landlord shall obtain a cost estimate for repairs
15 necessary to cure the violation from a licensed and bonded contractor.

16 2. A tenant may, at his or her own expense, obtain a cost estimate for
17 repairs necessary to cure the violation from a licensed and bonded
18 contractor after the filing of a civil action under this section.

19 3. If a cost estimate obtained by the tenant is less than the cost estimate
20 obtained by the landlord, the trial court shall determine as a matter of
21 law whether the cost to cure the violation equals or exceeds twelve (12)
22 months' rent.

23 (b) If the cost to cure the violation determined under paragraph (a) of this
24 subsection is an amount equal to or greater than the cost of twelve (12)
25 months' rent, the landlord may:

26 1. Refund all rent paid by the tenant under the rental agreement
27 maintained between the parties since the beginning of the tenancy;

1 and

2 2. Demand exclusive possession of the property from the tenant within
3 thirty (30) days.

4 (3) A tenant who files a civil action under this section and prevails in the claim may
5 be entitled to recover the following damages:

6 (a) Three (3) months' periodic rent;

7 (b) Reasonable attorney's fees;

8 (c) Punitive damages under KRS 411.186; and

9 (d) If the citation by the local code enforcement board related to faulty
10 provision or maintenance of water or ventilation systems that resulted in the
11 presence of toxic mold, reimbursement for:

12 1. Any expenses incurred by the tenant in obtaining experts to document
13 the presence of toxic mold on the property; and

14 2. Medical bills for treatment of a respiratory illness sustained by a
15 tenant or an immediate family member of the tenant lawfully residing
16 at the property arising as a direct and proximate result of the violation
17 cited by the local code enforcement board. Diagnosis by a licensed
18 physician or nurse practitioner of a respiratory illness shall be prima
19 facie evidence of proximate relationship to a violation, and shall
20 create a rebuttable presumption that medical bills concerning
21 respiratory illness of a tenant or an immediate family member of the
22 tenant are proximately related to a violation.

23 (4) (a) Any forcible detainer action brought by a landlord during the pendency of a
24 civil action under this section:

25 1. Shall be filed upon motion with the trial court hearing the civil action
26 and not as a separate action; and

27 2. May be dismissed by the trial court for good cause upon the motion of

- 1 the tenant, even if erroneously filed as a separate action.
- 2 **(b) If the trial court determines that the forcible detainer action was made in**
- 3 retaliation after the tenant initiated a:
- 4 **1. Complaint with the local code enforcement board that resulted in the**
- 5 citation for a violation as described in subsection (1) of this section;
- 6 **2. Complaint with the landlord that resulted in the citation for a violation**
- 7 as described in subsection (1) of this section; or
- 8 **3. Civil action under this section;**
- 9 the trial court may award damages of up to three (3) months' rent to the
- 10 tenant in addition to any damages awarded under subsection (3) of this
- 11 section.
- 12 **(5) All rent due during the pendency of a civil action under this section shall be paid**
- 13 into court until the conclusion of the action. The court shall determine the
- 14 amount due to each party and distribute the funds equitably according to the
- 15 findings and judgment in the action.
- 16 **(6) This section shall be construed to impose a duty upon any landlord owning**
- 17 residential rental property to repair the property at least to the applicable
- 18 standards promulgated by the local government for which the code enforcement
- 19 board has jurisdiction.
- 20 **(7) Any provision included in a lease agreement for a residential rental property**
- 21 shall be void and unenforceable if it:
- 22 **(a) Waives a tenant's rights under this section; or**
- 23 **(b) Compels arbitration of a claim under this section.**
- 24 **(8) This section shall supersede common law to the extent it is in conflict.**
- 25 **(9) This section shall operate independently of the Uniform Residential Landlord**
- 26 and Tenant Act, KRS 383.505 to 383.715, and shall apply in every local
- 27 jurisdiction in the Commonwealth.

1 (10) If any provision of this section or the application thereof to any person or
2 circumstance is held invalid, the invalidity shall not affect other provisions or
3 applications of this section that can be given effect without the invalid provision
4 or application, and to this end the provisions of this section are severable.

5 ➔Section 2. This Act may be cited as the Make Our Landlords Diligent
6 (M.O.L.D.) Act.