



## Legislation Details (With Text)

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**Type:** Ordinance      **Status:** Passed

**File created:** 4/10/2023      **In control:** Rules & Reference Committee

**On agenda:** 4/24/2023      **Final action:** 4/26/2023

**Title:** To amend Section 4509.07 of the Columbus City Codes, in order to address retaliatory eviction language and to repeal existing Section 4509.07 of the Columbus City Codes.

**Sponsors:** Shayla Favor

**Indexes:**

**Code sections:**

**Attachments:**

| Date      | Ver. | Action By             | Action                  | Result |
|-----------|------|-----------------------|-------------------------|--------|
| 4/26/2023 | 1    | CITY CLERK            | Attest                  |        |
| 4/25/2023 | 1    | MAYOR                 | Signed                  |        |
| 4/24/2023 | 1    | COUNCIL PRESIDENT     | Signed                  |        |
| 4/24/2023 | 1    | Columbus City Council | Waive the 2nd Reading   | Pass   |
| 4/24/2023 | 1    | Columbus City Council | Approved                | Pass   |
| 4/24/2023 | 1    | Columbus City Council | Read for the First Time |        |
| 4/24/2023 | 1    | COUNCIL PRESIDENT     | Signed                  |        |

This ordinance is intended to update and clarify the retaliatory eviction criminal code section for the City of Columbus. City agencies have expressed to City Council that the existing law is outdated and difficult to enforce due to lack of definitions as well as a lack of a burden-shifting scheme which would provide guidance to the City, tenants, landlords and the court.

Although the City of Columbus has a process in place for investigating retaliatory evictions, under the existing law, any reason that the landlord proffers to justify the action taken against the tenant can serve as a defense. Under the proposed change, the court would ultimately decide if the proffered reason is a valid defense.

**FISCAL IMPACT:** No funding is required for this legislation.

To amend Section 4509.07 of the Columbus City Codes, in order to address retaliatory eviction language and to repeal existing Section 4509.07 of the Columbus City Codes.

**WHEREAS,** it is necessary to clarify and update the language pertaining to retaliatory evictions in order to protect tenants who make a good faith complaint about a housing, building, health or other code violation to a government authority or to a person in control of the rental property where the tenant resides; and

**WHEREAS,** City Council recognizes the challenge before the City of Columbus in demonstrating that the action taken

by the landlord or a person in control of the premises is in fact in retaliation; and

**WHEREAS**, City Council recognizes the need to provide greater clarity on the subject of what types of actions are to be considered retaliatory; and

**WHEREAS**, City Council acknowledges that tenants have a right to occupy safe housing, **NOW, THEREFORE**,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That section 4509.07 of the Columbus City Codes is hereby amended to read as follows:

- (a) No owner, or person having control, of any premises regulated by this code shall institute or threaten to institute any action to recover possession of the premises or otherwise cause a tenant to quit a habitation involuntarily, demand an increase in rent from a tenant, decrease services to which a tenant has been entitled, increase the obligations of a tenant, or refuse to renew the tenant's lease agreement in retaliation against:
- (1) A tenant's good faith complaint, expression of intent to make a complaint or report of conditions in, or affecting a tenant's dwelling unit, which might reasonably be believed to constitute a violation of a housing, building, health, or other code or ordinance made to a governmental authority or to the owner or person having control of the premises; or
  - (2) The tenant joining with other tenants for the purpose of negotiating or dealing collectively with the owner or person having control of the premises on any of the terms and conditions of a rental agreement.
- (b) The City of Columbus bears the burden of establishing a prima facie case of retaliation. In order to establish a prima facie case of retaliation, the City must demonstrate the following:
- (1) The victim is a "tenant" as defined by C.C.C. Section 4501.405.
  - (2) The tenant has engaged in one of the protected activities in C.C.C. Section 4509.07(a).
  - (3) The owner or person having control of the premises has engaged in at least one of the following actions in close temporal proximity to the occurrence of one of the protected activities described in division (a) of this section:
    - (i) Increasing rent or any other obligations of the tenant;
    - (ii) A reduction of any services to the tenant;
    - (iii) A warning or a threat of eviction, formal or informal;
    - (iv) Filing of an eviction proceeding;
    - (v) Termination or non-renewal of a lease agreement in close temporal proximity to the occurrence of any event referred to in C.C.C. Section 4509.07(a);
    - (vi) Property owner trespassing on the property or forcing entry;
    - (vii) Shutting off utilities or water services;
    - (vii) Not accepting rent payment;
    - (viii) Interfering with the tenant's quiet use and enjoyment of the property; or,
    - (ix) Prohibiting the right of access to any part of the premises that the tenant is lawfully entitled to use or occupy.
- (c) ~~Once the City has established a prima facie case, a rebuttable presumption shifts the burden to the owner, or person having control of the premises, to articulate a legitimate, non-retaliatory reason for taking action against the tenant. To rebut the presumption to any prosecution brought under C.C.C. Section 4509.07(a) that the actions taken~~

by the owner, or person having control of the premises were retaliatory, the accused must demonstrate by preponderance of the evidence either of the following: A non-retaliatory reason may be asserted by the accused as an affirmative defense to any actions taken under division (b) of this section by demonstrating either of the following by a preponderance of the evidence:

- (1) A tenant's violation of the lease agreement between the tenant and the accused; or
- (2) A lawful reason not related to the tenant's good faith complaint, expression of intent to make a complaint or report to the accused or a governmental authority.

If the accused articulates such a reason, the presumption ceases and the City bear the burden of proving the proffered reason is merely a pretext for unlawful retaliation.

(d) If a non-retaliatory reason is asserted as an affirmative defense under division (c) of this section, the City may show the proffered reason is merely a pretext for unlawful retaliation.

~~(d)(e)~~ Any provision of any lease that conflicts with this Section ~~of the Code~~ is void and unenforceable.

(e) ~~C.C.C. Section 4509.07 is not intended to serve as a basis for a civil claim, a counterclaim, or a defense in an eviction proceeding under R.C. Chapters 5321 or R.C. 1923.~~

(f) ~~Penalty. A person who~~ Whomever violates this section 4509.07 is guilty of Retaliatory Action, a misdemeanor of the first degree, ~~punishable by \$1,000 fine or up to 180 days in jail.~~

(g) Organizational criminal liability as provided for in Section 2301.23 is contemplated where an organization is the owner or person in control of the premises.

**SECTION 2.** That existing section 4509.07 of the Columbus City Codes is hereby repealed.

**SECTION 3.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.