**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 11, TO CHAPTER 40, TITLE 27 ENTITLED “SOUTH CAROLINA HOUSING COURT” SO AS TO REQUIRE EACH COUNTY TO ESTABLISH A HOUSING COURT WITHIN THE COUNTY’S EXISTING MAGISTRATES COURT, TO PROVIDE FOR THE TRANSFER OF A CASE IN CERTAIN CIRCUMSTANCES, AND TO PROVIDE THAT A TENANT HAS A RIGHT TO COUNSEL; TO AMEND SECTION 27‑40‑210, RELATING TO GENERAL DEFINITIONS, SO AS TO DEFINE THE TERM “COURT”; AND TO AMEND SECTIONS 27‑40‑130, 27‑40‑610, 27‑40‑710, AND 27‑40‑780, ALL RELATING TO LEGAL REMEDIES UNDER THE RESIDENTIAL LANDLORD AND TENANT ACT, SO AS TO MAKE CONFORMING CHANGES.

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

SECTION 1. Chapter 40, Title 27 of the 1976 Code is amended by adding:

“Article 11

South Carolina Housing Court

Section 27‑40‑1000. (A) Each county in this State must establish a housing court within the county’s existing magistrates court with primary and limited jurisdiction over a landlord or tenant as to any conduct governed by the Residential Landlord and Tenant Act.

(B) The court must be comprised of at least one but no more than three magistrates. The governor may appoint an additional magistrate for a county with less than three but not more than five magistrates for the sole purpose of serving on the housing court. The appointment must be made in the manner provided for in Title 22.

(C) A filed claim may be transferred to the docket of the appropriate circuit court or the general magistrates court when the transfer:

(1) would allow for an earlier hearing than the housing court;

(2) is agreed to and both parties submit written informed consent to the housing court; or

(3) better serves the interest of justice.

Section 27‑40‑1010. A tenant is entitled to legal counsel in an eviction proceeding rising from the termination or alleged noncompliance with a rental agreement with the landlord. After notice of the cause of action has been served on the tenant, the tenant must submit an affidavit stating they have retained adequate legal counsel or request that the court appoint qualified and experience counsel to act on behalf of the tenant.

Section 27‑40‑1020. A decision of the housing court may be appealed to the circuit court in a manner consistent with other appeals from magistrates court and the case must be heard as soon as feasible after the appeal is docketed.

Section 27‑40‑1030. The housing court retains jurisdiction relating to any conduct governed by the Residential Landlord and Tenant Act in cases where damages or attorney’s fees exceed the jurisdictional limit established by Title 22.”

SECTION 2.A. Section 27‑40‑210 of the 1976 Code is amended by adding an appropriately numbered item to read:

“( ) ‘Court’ means the housing court of each county established pursuant to Article 11, Chapter 40, Title 27.”

B. Section 27‑40‑130(a) of the 1976 Code is amended to read:

“(a) The ~~circuit courts and magistrate courts~~ housing court of this State shall exercise ~~concurrent~~ primary jurisdiction over any landlord with respect to any conduct in this State governed by this chapter or with respect to any claim arising from a transaction subject to this chapter. The circuit courts and magistrate courts may exercise jurisdiction over any landlord with respect to any conduct in this State governed by this chapter or with respect to any claim arising from a transaction subject to this chapter under limited circumstances. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord may be acquired in a civil action or proceeding instituted in the court of common pleas or magistrate court by the service of process in the manner provided by this section.”

C. Section 27‑40‑610(b) of the 1976 Code is amended to read:

“(b) Except as provided in this chapter, the tenant may recover actual damages and obtain injunctive relief in ~~a magistrate’s or circuit~~ the housing court, without posting bond, for any noncompliance by the landlord with the rental agreement or Section 27‑40‑440. If the landlord’s noncompliance is wilful, the tenant may recover reasonable attorney’s fees.”

D. Section 27‑40‑710(C) of the 1976 Code is amended to read:

“(C) Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief, judgments, or evictions in ~~magistrate’s or circuit~~ the housing court without posting bond for any noncompliance by the tenant with the rental agreement or Section 27‑40‑510. A real estate broker‑in‑charge licensed in this State or a licensed property manager, in the conduct of his licensed business may, either in person or through one or more regular employees, complete a form writ of eviction and present facts to judicial officers on behalf of his landlord/principal in support of an action for eviction and/or distress and/or abandonment for which no separate charge is made for this service. If the tenant’s noncompliance is wilful other than nonpayment of rent, the landlord may recover reasonable attorney’s fees, provided the landlord is represented by an attorney. If the tenant’s nonpayment of rent is not in good faith, the landlord is entitled to reasonable attorney’s fees, provided the landlord is represented by an attorney.”

E. Section 27‑40‑780 of the 1976 Code is amended to read:

“Section 27‑40‑780. (a) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief in ~~magistrates’ or circuit~~ the housing court without posting bond to compel access, or terminate the rental agreement. In either case the landlord may recover actual damages and reasonable attorney’s fees.

(b) If the landlord knowingly makes an unlawful entry or repeated lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief in ~~magistrates’ or circuit~~ the housing court without posting bond to prevent the recurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages and reasonable attorney’s fees.”

SECTION 3. This act takes effect on July 1, 2021.

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