

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;**

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.

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

**the tenant, even if erroneously filed as a separate action.**

(b) If the trial court determines that the forcible detainer action was made in retaliation after the tenant initiated a:

1. Complaint with the local code enforcement board that resulted in the citation for a violation as described in subsection (1) of this section;

**2. Complaint with the landlord that resulted in the citation for a violation as described in subsection (1) of this section; or**

### **3. *Civil action under this section;***

12 (5) All rent due during the pendency of a civil action under this section shall be paid  
13 into the 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:

(a) *Waives a tenant's rights under this section; or*

(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.