Legislation Details

File #:	16-2617	**Version:**	1	**Name:**	PROHIBITION ON RETALIATORY MOTIONS FOR USE AND OCCUPANCY
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File created:	4/7/2016			**In control:**	Workforce, Housing & Community Development Committee
On agenda:	4/13/2016			**Final action:**	11/21/2018

Title: PROPOSED ORDINANCE AMENDMENT

PROHIBITION ON RETALIATORY MOTIONS FOR USE AND OCCUPANCY

WHEREAS, the 1970 Illinois Constitution, Article VII, Section 6 designates Cook County as a Home Rule Unit of Government; and

WHEREAS, Cook County may exercise powers and perform functions as they relate to government, including the authority to regulate for the protection of the public health, safety, morals and welfare; and including the power to tax; and

WHEREAS, Cook County may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State's exercise to be exclusive; and

WHEREAS, the General Assembly has not specifically limited the power of Cook County to enact laws regarding Forcible Entry and Detainer; and

WHEREAS, the General Assembly has not specifically declared that the State's exercise over Forcible Entry and Detainer laws to be exclusive to the State; and

WHEREAS, allowing landlords who initiate Forcible Entry and Detainer Actions in the Circuit Court of Cook County to file Motions for Use and Occupancy during the pendency of trial is punitive to defendants seeking to protect their rights; and

WHEREAS, a disproportionate number of defendants in Forcible Entry and Detainer actions live in poverty; and

WHEREAS, a Motion for Use and Occupancy during pendency of a jury trial may discourage defendants from protecting their rights and be prohibitive of finding legal counsel; and

WHEREAS, penalizing individuals for exercising their right to a jury trial is an important access to justice issue;

NOW THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 42 - Human Relations, Article II - Human Rights, Section 42-38-Housing, subsection (b) of the Cook County Code be amended as follows:

Sec. 42-38. - Housing.

(b) Prohibitions.

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(8) Retaliatory Motion for Use and Occupancy. No person, having initiated an Action for Forcible Entry and Detainer pursuant to 735 ILCS Article IX, shall be permitted to file a Motion for Use and

Occupancy against a party who has made a jury demand for the proceeding during the pendency of the jury trial without a bona fide showing of substantial financial hardship as a result of the extended time without the ability to collect rent. No operator of a housing facility who receives government subsidies for all, or a portion of, rent on the unit that is the subject of the Forcible Detainer and Entry action shall be permitted to make such a motion.

Effective date: This ordinance shall be in effect immediately upon adoption.

Sponsors: RICHARD R. BOYKIN

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
11/21/2018	1	Board of Commissioners	receive and file	
4/13/2016	1	Board of Commissioners	refer	Pass

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