

House Bill 834 (COMMITTEE SUBSTITUTE)

By: Representatives Ballinger of the 23rd, Beskin of the 54th, Blackmon of the 146th, Hilton of the 95th, Corbett of the 174th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 19-13-3 and Chapter 7 of Title 44 of the Official Code of Georgia
2 Annotated, relating to filing of petition seeking relief from family violence, granting of
3 temporary relief ex parte, hearing, dismissal of petition upon failure to hold hearing, and
4 procedural advice for victims, and landlord and tenant, respectively, so as to clarify matters
5 concerning the effect of a temporary ex parte order and the length of time it is effective; to
6 provide for the termination of a residential rental agreement under circumstances involving
7 family violence; to provide for definitions; to provide for notice and terms of termination;
8 to provide for applicability; to revise the procedures between the landlord and tenant for the
9 listing of damages during tenancy which form a basis for a charge against the security
10 deposit; to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Code Section 19-13-3 of the Official Code of Georgia Annotated, relating to filing of petition
14 seeking relief from family violence, granting of temporary relief ex parte, hearing, dismissal
15 of petition upon failure to hold hearing, and procedural advice for victims, is amended by
16 revising subsections (b) and (c) as follows:

17 "(b) Upon the filing of a verified petition in which the petitioner alleges with specific facts
18 that probable cause exists to establish that family violence has occurred in the past and may
19 occur in the future, the court may order such temporary relief ex parte as it deems
20 necessary to protect the petitioner or a minor of the household from violence. If the court
21 issues an ex parte order, a copy of the order shall be immediately furnished to the petitioner
22 and such order shall remain in effect until the court issues an order dismissing such order
23 or a hearing as set forth in subsection (c) of this Code section occurs, whichever occurs
24 first.

25 (c) Within ten days of the filing of the petition under this article or as soon as practical
26 thereafter, but ~~in no case~~ not later than ~~30~~ 45 days after the filing of the petition, a hearing

H. B. 834 (SUB)

27 shall be held at which the petitioner must prove the allegations of the petition by a
 28 preponderance of the evidence as in other civil cases. In the event a hearing cannot be
 29 scheduled within the county where the case is pending within the ~~30~~ 45 day period the
 30 same shall be scheduled and heard within any other county of that circuit. If a hearing is
 31 not held within ~~30~~ 45 days of the filing of the petition, the petition shall stand dismissed
 32 unless the parties otherwise agree."

33 SECTION 2.

34 Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to landlord and
 35 tenant, is amended in Article 1, relating to general provisions, by adding a new Code section
 36 to read as follows:

37 "44-7-23.

38 (a) As used in this Code section, the term:

39 (1) 'Civil family violence order' means:

40 (A) Any protective order issued pursuant to Article 1 of Chapter 13 of Title 19,
 41 provided that the respondent was present or had notice of the hearing that resulted in
 42 the issuance of such order; or

43 (B) Any ex parte temporary protective order issued pursuant to Article 1 of Chapter 13
 44 of Title 19, provided that it is accompanied by a police report showing a basis for such
 45 order.

46 (2) 'Criminal family violence order' means:

47 (A) Any order of pretrial release issued as a result of an arrest for an act of family
 48 violence; or

49 (B) Any order for probation issued as a result of a conviction or plea of guilty, nolo
 50 contendere, or first offender to an act of family violence.

51 (3) 'Family violence' shall have the same meaning as set forth in Code Section 19-13-1.

52 (b) A tenant may terminate his or her residential rental or lease agreement for real estate
 53 effective 30 days after providing the landlord with a written notice of termination when a
 54 civil family violence order or criminal family violence order has been issued:

55 (1) Protecting such tenant or his or her minor child; or

56 (2) Protecting such tenant when he or she is a joint tenant, or his or her minor child, even
 57 when such protected tenant had no obligation to pay rent to the landlord.

58 (c) The notice to the landlord pursuant to subsection (b) of this Code section shall be
 59 accompanied by a copy of the applicable civil family violence order or criminal family
 60 violence order and a copy of the police report if such order was an ex parte temporary
 61 protective order.

62 (d) Upon termination of a residential rental or lease agreement under this Code section, the
 63 tenant may occupy the real estate until the termination is effective. Such tenant shall be
 64 liable for the rent due under such agreement prorated to the effective date of the
 65 termination, payable at such time as would have otherwise been required by the terms of
 66 such agreement, and for any delinquent or unpaid rent or other sums owed to the landlord
 67 prior to the termination of such agreement. The tenant shall not be liable for any other fees,
 68 rent, or damages due to the early termination of the tenancy as provided for in this Code
 69 section. Notwithstanding any provision of law to the contrary, if a tenant terminates a
 70 residential rental or lease agreement pursuant to this Code section 14 or more days prior
 71 to occupancy, no damages or penalties of any kind will be assessable.

72 (e) This Code section shall apply to all residential real estate rental or lease agreements
 73 entered into on or after July 1, 2018, and to any renewals, modifications, or extensions of
 74 such agreements in effect on such date. This Code section shall not be waived or modified
 75 by the agreement of the parties under any circumstances."

76 **SECTION 3.**

77 Said chapter is further amended by revising subsections (b) and (c) of Code Section 44-7-33,
 78 relating to lists of existing defects and damages during tenancy, right of tenant to inspect and
 79 dissent, and action to recover security deposit, as follows:

80 "(b)(1) Within three business days after the ~~date of the termination of occupancy~~
 81 termination of the residential lease and vacation of the premises or the surrender and
 82 acceptance of the premises, whichever occurs first, the landlord or his or her agent shall
 83 inspect the premises and compile a comprehensive list of any damage done to the
 84 premises which is the basis for any charge against the security deposit and the estimated
 85 dollar value of such damage. The tenant shall have the right to inspect ~~the premises such~~
 86 list within five business days after the ~~termination of the occupancy in order to ascertain~~
 87 the accuracy of the list. ~~termination of the residential lease and vacation of the premises~~
 88 or the surrender and acceptance of the premises and the inspection by the landlord or his
 89 or her agent. If, at the landlord's election, the tenant is present with the landlord at the
 90 time of the inspection, the ~~The~~ landlord and the tenant shall sign the list, and this shall be
 91 conclusive evidence of the accuracy of the list. If the tenant refuses to sign the list, he or
 92 she shall state specifically in writing the items on the list to which he or she dissents and
 93 shall sign such statement of dissent. ~~The landlord shall then comply with the provisions~~
 94 of Code Section 44-7-34.

95 (2) If the tenant ~~terminates occupancy vacates or surrenders the premises~~ without
 96 notifying the landlord, the landlord ~~may~~ shall inspect the premises and compile a
 97 comprehensive list of any damage done to the premises which is the basis for any charge

98 against the security deposit and the estimated dollar value of such damage ~~make a final~~
 99 ~~inspection~~ within a reasonable time, not to exceed seven days, after discovering the
 100 premises has been surrendered by vacancy termination of occupancy. The landlord shall
 101 sign the list and then comply with the provisions of Code Section 44-7-34.

102 (c) A tenant who disputes the accuracy of the final damage list ~~given~~ compiled pursuant
 103 to subsection (b) of this Code section and provided to the tenant pursuant to Code Section
 104 44-7-34 may bring an action in any court of competent jurisdiction in this state to recover
 105 the portion of the security deposit which the tenant believes to be wrongfully withheld for
 106 damages to the premises. The tenant's claims shall be limited to those items to which the
 107 tenant specifically dissented in accordance with this Code section. If the tenant fails to sign
 108 a list or to dissent specifically in accordance with this Code section, the tenant shall not be
 109 entitled to recover the security deposit or any other damages under Code Section 44-7-35,
 110 provided that the lists required under this Code section contain written notice of the tenant's
 111 duty to sign or to dissent to the list."

112 SECTION 4.

113 Said chapter is further amended by revising subsection (a) of Code Section 44-7-34, relating
 114 to return of security deposit, grounds for retention of part, delivery of statement and sum due
 115 to tenant, unclaimed deposit, and court determination of disposition of deposit, as follows:

116 "(a) Except as otherwise provided in this article, within ~~one month~~ 30 days after the
 117 termination of the residential lease or the surrender and acceptance of the premises,
 118 whichever occurs last, a landlord shall return to the tenant the full security deposit which
 119 was deposited with the landlord by the tenant. No security deposit shall be retained to
 120 cover ordinary wear and tear which occurred as a result of the use of the premises for the
 121 purposes for which the premises were intended, provided that there was no negligence,
 122 carelessness, accident, or abuse of the premises by the tenant or members of his or her
 123 household or their invitees or guests. In the event that actual cause exists for retaining any
 124 portion of the security deposit, the landlord shall provide the tenant with a written
 125 statement listing the exact reasons for the retention thereof. If the reason for retention is
 126 based on damages to the premises, such damages shall be listed as provided in Code
 127 Section 44-7-33. When the statement is delivered, it shall be accompanied by a payment
 128 of the difference between any sum deposited and the amount retained. The landlord shall
 129 be deemed to have complied with this Code section by mailing the statement and any
 130 payment required to the last known address of the tenant via ~~first-class~~ first-class mail. If
 131 the letter containing the payment is returned to the landlord undelivered and if the landlord
 132 is unable to locate the tenant after reasonable effort, the payment shall become the property
 133 of the landlord 90 days after the date the payment was mailed. Nothing in this Code

134 section shall preclude the landlord from retaining the security deposit for nonpayment of
135 rent or of fees for late payment, for abandonment of the premises, for nonpayment of utility
136 charges, for repair work or cleaning contracted for by the tenant with third parties, for
137 unpaid pet fees, or for actual damages caused by the tenant's breach, provided that the
138 landlord attempts to mitigate the actual damages."

139 **SECTION 5.**

140 All laws and parts of laws in conflict with this Act are repealed.