

House Bill 346 (COMMITTEE SUBSTITUTE)

By: Representatives Cooper of the 43<sup>rd</sup>, Gaines of the 117<sup>th</sup>, Jones of the 47<sup>th</sup>, and Silcox of the 52<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated,  
2 relating to landlord and tenant generally, so as to prohibit retaliation by a landlord against a  
3 tenant for taking certain actions; to provide for circumstances that are not considered  
4 retaliation; to provide for remedies; to provide for related matters; to repeal conflicting laws;  
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to  
9 landlord and tenant generally, is amended by adding a new Code section to read as follows:  
10 "44-7-24.

11 (a) A tenant establishes a prima-facie case of retaliation by demonstrating that he or she  
12 took an action under subsection (b) of this Code section and by demonstrating that his or  
13 her landlord took an action under subsection (c) of this Code section.

14 (b) Elements of a prima-facie case under this Code section include that a tenant:

15 (1) In good faith exercised or attempted to exercise against a landlord a right or remedy  
16 granted to such tenant by contract or law;

17 (2) Gave a landlord a notice to repair or exercise a remedy under this chapter;

18 (3) Complained to a governmental entity responsible for enforcing building or housing  
19 codes or a public utility, and the tenant:

20 (A) Claims a building or housing code violation or utility problem that is the duty of  
21 the landlord to repair; and

22 (B) Believes in good faith that the complaint is valid and that the violation or problem  
23 occurred; or

24 (4) Established, attempted to establish, or participated in a tenant organization relative  
25 to the conditions of the property.

26 (c) Elements of a prima-facie case under this Code section include that a landlord, within  
 27 six months after the date that a tenant takes any action described under subsection (b) of  
 28 this Code section:

29 (1) Filed a dispossessory action, except for the grounds set forth in paragraph (2) of  
 30 subsection (d) of this Code section;

31 (2) Deprived the tenant of the use of the premises, except for reasons authorized by law;

32 (3) Decreased services to the tenant;

33 (4) Increased the tenant's rent or terminated the tenant's lease or rental agreement; or

34 (5) Materially interfered with the tenant's rights under the tenant's lease or rental  
 35 agreement.

36 (d) A landlord shall not be liable for retaliation under this Code section:

37 (1) For increasing rent:

38 (A) Under an escalation clause in a written lease for utilities, taxes, or insurance; or

39 (B) As part of a pattern of rent increases or for reducing services as part of a pattern  
 40 of service reductions, for an entire multiunit residential building or complex; or

41 (2) For a dispossessory action or lease or rental agreement termination in accordance  
 42 with this chapter based upon one or more of the following circumstances:

43 (A) The tenant is delinquent in rent when the landlord gives notice to vacate or files  
 44 a dispossessory action;

45 (B) The tenant, a member of the tenant's family, or a guest or invitee of the tenant  
 46 intentionally damages property on the premises or by word or conduct threatens the  
 47 personal safety of the landlord, the landlord's employees, or another tenant;

48 (C) The tenant has materially breached the lease, other than by holding over, by an  
 49 action such as violating written lease provisions prohibiting serious misconduct or  
 50 criminal acts;

51 (D) The tenant holds over after the tenant gives notice of termination or intent to  
 52 vacate; or

53 (E) The tenant holds over after the landlord gives notice of termination at the end of  
 54 the rental term as agreed upon in the written lease.

55 (e) In addition to any other remedies provided for by law, if a landlord retaliates against  
 56 a tenant pursuant to this Code section, such retaliation shall be a defense to a dispossessory  
 57 action, and the tenant may recover from the landlord a civil penalty of one month's rent  
 58 plus \$500.00, actual damages, court costs, reasonable attorney's fees where the conduct is  
 59 wilful, wanton, or malicious, and declaratory or injunctive relief less any delinquent rents  
 60 or other sums for which the tenant is liable to the landlord. If the tenant's rent payment to  
 61 the landlord is subsidized in whole or in part by a governmental entity, the civil penalty

62 granted under this Code section shall reflect the fair market rent of the dwelling place plus  
63 \$500.00."

64 **SECTION 2.**

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