

SENATE SUBSTITUTE TO HB 346

AS PASSED SENATE

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 a defense; to provide for related matters;
 5 to repeal conflicting laws; 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 residential tenant establishes a prima-facie case of retaliation by demonstrating that
 12 he or she took an action under subsection (b) of this Code section relating to a life, health,
 13 safety, or habitability concern and by demonstrating that his or her landlord took an action
 14 under subsection (c) of this Code section.

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

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

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

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

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

23 (B) Acts in good faith in that a reasonable person would believe that the complaint is
 24 valid and that the violation or problem occurred; or

25 (4) Established, attempted to establish, or participated in a tenant organization to address
 26 problems related to the habitability of the property, such as life, health, or safety
 27 concerns.

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

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

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

34 (3) Decreased services to the tenant;

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

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

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

39 (1) For increasing rent or reducing services:

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

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

43 (C) As part of a rent increase due to the terms of the tenant's or landlord's participation
 44 in a program regulated by this state or the federal government involving the receipt of
 45 federal funds, tenant assistance, or tax credits; or

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

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

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

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

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

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

59 (e) In addition to any other remedies provided for by law, if a landlord retaliates against
 60 a tenant pursuant to this Code section, such retaliation shall be a defense to a dispossessory
 61 action, and the tenant may recover from the landlord a civil penalty of one month's rent

62 plus \$500.00, court costs, reasonable attorney's fees where the conduct is wilful, wanton,
63 or malicious, and declaratory relief less any delinquent rents or other sums for which the
64 tenant is liable to the landlord.

65 (f) It shall be a rebuttable defense under this Code section that the property has been
66 inspected within the prior 12 months pursuant to any federal, state, or local program which
67 certifies that the property complies with applicable building and housing codes or that the
68 property has been inspected within the prior 12 months by a code enforcement officer or
69 a licensed building inspector who certifies that the property complies with applicable
70 building and housing codes."

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SECTION 2.

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