

House Bill 404

By: Representatives Carpenter of the 4th, Williamson of the 112th, Cooper of the 45th, Crawford of the 84th, Oliver of the 82nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to
2 landlord and tenant, so as to provide for a duty of habitability for certain rental agreements;
3 to provide for an exception to such duty; to provide for an exception to landlord tort liability;
4 to provide for definitions; to provide for notice; to provide for a maximum security deposit
5 amount; to provide for expedited evictions for certain criminal activity; to provide for a short
6 title; to provide for applicability; to provide for related matters; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Safe at Home Act."

11 **SECTION 2.**

12 Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to landlord and
13 tenant, is amended by revising subsection (b) of Code Section 44-7-2, relating to parol
14 contract creating landlord and tenant relationship, certain provisions prohibited, and effect
15 of provision for attorney's fees, as follows:

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16 "(b) In any contract, lease, license agreement, or similar agreement, oral or written, for the
 17 use or rental of real property as a dwelling place, a landlord or a tenant may not waive,
 18 assign, transfer, or otherwise avoid any of the rights, duties, or remedies contained in the
 19 following provisions of law:

- 20 (1) Code Section 44-7-13, relating to the duties of a landlord as to repairs and
 21 improvements, except as allowed pursuant to subsection (b) of such Code section;
 22 (2) Code Section 44-7-14, relating to the liability of a landlord for failure to repair;
 23 (3) Ordinances adopted pursuant to Code Section 36-61-11;
 24 (4) Article 3 of this chapter, relating to proceedings against tenants holding over;
 25 (5) Article 4 of this chapter, relating to distress warrants;
 26 (6) Article 2 of this chapter, relating to security deposits; and
 27 (7) Any applicable provision of Chapter 11 of Title 9 which has not been superseded by
 28 this chapter."

29 **SECTION 3.**

30 Said chapter is further amended by revising Code Section 44-7-13, relating to landlord's
 31 duties as to repairs and improvements, as follows:

32 "44-7-13.

33 (a) Except as provided in subsection (b) of this Code section, the ~~The~~ landlord ~~must~~ shall
 34 keep the premises in repair. ~~He~~ and shall be liable for all substantial improvements placed
 35 upon the premises by ~~his~~ such landlord's consent.

36 (b) Any contract, lease, license, or similar agreement, oral or written, for the use or rental
 37 of real property as a dwelling place is deemed to include a provision that the premises is
 38 fit for human habitation; provided, however, that such provision may be waived by a tenant
 39 if the contract, lease, license, or similar agreement for the use or rental of real property as
 40 a dwelling place is for a period of more than five years."

41 **SECTION 4.**

42 Said chapter is further amended by revising Code Section 44-7-14, relating to tort liability
43 of landlord, as follows:

44 "44-7-14.

45 Having fully parted with possession and the right of possession, the landlord ~~is~~ shall not
46 be responsible to third persons for damages resulting from the negligence or illegal use of
47 the premises by the tenant; provided, however, the landlord ~~is~~ shall be responsible for
48 damages arising from defective construction or for damages arising from the failure to keep
49 the premises in repair, except when a tenant waives the provision that the premises is fit
50 for human habitation as allowed pursuant to subsection (b) of Code Section 44-7-13."

51 **SECTION 5.**

52 Said chapter is further amended by revising subsection (a) of Code Section 44-7-14.1,
53 relating to landlord's duties as to utilities, as follows:

54 "(a) As used in this Code section, the term 'utilities' means cooling, heat, light, and water
55 service."

56 **SECTION 6.**

57 Said chapter is further amended by adding a new Code section to as follows:

58 "44-7-30.1.

59 No landlord shall demand or receive a security deposit in an amount that exceeds the
60 equivalent of three months' rent."

61 **SECTION 7.**

62 Said chapter is further amended by revising Code Section 44-7-50, relating to demand for
63 possession, procedure upon a tenant's refusal, and concurrent issuance of federal lease
64 termination notice, as follows:

65 "44-7-50.

66 (a) In all cases when a tenant holds possession of lands or tenements over and beyond the
67 term for which they were rented or leased to such tenant ~~or fails to pay the rent when it~~
68 ~~becomes due~~ or has engaged in criminal activity as defined in subsection (c) of Code
69 Section 44-7-53 and in all cases when lands or tenements are held and occupied by any
70 tenant at will or sufferance, whether under contract of rent or not, when the owner of such
71 lands or tenements desires possession of such lands or tenements, such owner may,
72 individually or by an agent, attorney ~~in fact~~ at law, or attorney ~~at law~~ in fact, demand the
73 possession of the property so rented, leased, held, or occupied. If the tenant refuses or fails
74 to deliver possession when so demanded, the owner or the agent, attorney at law, or
75 attorney in fact of such owner may immediately go before the judge of the superior court,
76 the judge of the state court, or the clerk or deputy clerk of either court, or the judge or the
77 clerk or deputy clerk of any other court with jurisdiction over the subject matter, or a
78 magistrate in the district where the land lies and make an affidavit under oath to the facts.
79 ~~The~~ Such affidavit may likewise be made before a notary public.

80 (b) If issued by a public housing authority, the demand for possession required by
81 subsection (a) ~~or (c)~~ of this Code section may be provided concurrently with the federally
82 required notice of lease termination in a separate writing.

83 (c) In all cases when a tenant fails to pay the rent, late fees, utilities, or other charges when
84 it becomes due, if the tenant refuses to pay the amount due or fails to deliver possession
85 when so demanded after being provided with a three-day written notice to vacate or pay
86 all past due rent, late fees, utilities, and other charges, the owner or the agent, attorney at
87 law, or attorney in fact of such owner may immediately go before the judge of the superior
88 court, the judge of the state court, or the clerk or deputy clerk of either court, or the judge
89 or the clerk or deputy clerk of any other court with jurisdiction over the subject matter, or
90 a magistrate in the district where the land lies and make an affidavit under oath to the facts.
91 Such affidavit may likewise be made before a notary public.

92 (d) The demand for possession notice under subsection (a) of this Code section or the
93 three-day notice to vacate or pay under subsection (c) of this Code section shall be posted
94 conspicuously on the door of the property and delivered via statutory overnight delivery."

95 **SECTION 8.**

96 Said chapter is further amended by revising Code Section 44-7-53, relating to when writ of
97 possession issued, trial of issues, and possession pending trial, as follows:

98 "44-7-53.

99 (a) If the tenant fails to answer as provided in subsection (b) of Code Section 44-7-51, the
100 court shall issue a writ of possession instanter notwithstanding Code Section 9-11-55 or
101 Code Section 9-11-62. The court, without the intervention of a jury, shall not require any
102 further evidence nor hold any hearings and the plaintiff shall be entitled to a verdict and
103 judgment by default for all rents due as if every item and paragraph of the affidavit
104 provided for in Code Section 44-7-50 were supported by proper evidence.

105 (b) If the tenant answers, a trial of the issues shall be had in accordance with the procedure
106 prescribed for civil actions in courts of record except that if the action is tried in the
107 magistrate court the trial shall be had in accordance with the procedures prescribed for that
108 court. Every effort should be made by the trial court to expedite a trial of the issues. The
109 defendant shall be allowed to remain in possession of the premises pending the final
110 outcome of the litigation; provided, however, that, at the time of his answer, the tenant
111 must pay rent into the registry of the court pursuant to Code Section 44-7-54.

112 (c)(1) As used in this subsection, 'criminal activity' means:

113 (A) Any conduct that constitutes a crime and threatens the health, safety, or welfare of
114 the other residents, the landlord, or the landlord's agents, employees, or contractors; or

115 (B) A criminal charge or conviction for a crime against a person or a sexual offense
116 prohibited by Chapter 5 or 6 of Title 16 or a serious violent felony as defined in Code
117 Section 17-10-6.1;

118 (2) If the dispossession proceedings are initiated due to criminal activity, the landlord
119 shall note on the affidavit pursuant to Code Section 44-7-50 that the case is based on
120 criminal activity.

121 (3) If the dispossession proceedings are initiated due to criminal activity and the tenant
122 does not answer, the court shall issue the writ of possession instanter pursuant to
123 subsection (a) of this Code section within 14 days from the date on which the answer was
124 due. Such writ shall note that it shall be expedited pursuant to this Code section. Such
125 writ shall be executed within 14 days of the date of its issuance.

126 (4) If the dispossession proceedings are initiated due to criminal activity and the tenant
127 answers as provided in subsection (b) of Code Section 44-7-51, the court shall schedule
128 the trial within 14 days of the date the answer is filed."

129 **SECTION 9.**

130 Said chapter is further amended by revising Code Section 44-7-55, relating to judgment, writ
131 of possession, landlord's liability for wrongful conduct, distribution of funds paid into court,
132 and personal property, as follows:

133 "(e)(1) Except as provided in paragraph (2) of this subsection, nothing ~~Nothing~~ in this
134 Code section shall require a sheriff, constable, or marshal to execute a writ of possession
135 within 30 days from the issuance of any order granting a writ of possession, or the
136 issuance, application, or request for the execution of the writ of possession.

137 (2) If the writ of possession is issued pursuant to this Code section is based on criminal
138 activity as defined in Code Section 44-7-53, the person responsible for execution of the
139 writ of possession shall execute such writ within 14 days of its effective date."

140 **SECTION 10.**

141 This Act shall apply to residential lease agreements that are entered into or renewed on or
142 after July 1, 2023.

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SECTION 11.

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