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## HB 346 - Tenant Retaliation Protection

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## PROPERTY

***Landlord and Tenant: Amend Article 1 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, Relating to Landlord and Tenant Generally, so as to Prohibit Retaliation by a Landlord Against a Tenant for Taking Certain Actions; Provide for Circumstances that are not Considered Retaliation; Provide for Remedies; Provide for a Defense; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes***

CODE SECTIONS:	O.C.G.A. § 44-7-24 (new)
BILL NUMBER:	HB 346
ACT NUMBER:	311
GEORGIA LAWS:	2019 Ga. Laws 1026
SUMMARY:	The Act prohibits landlords from taking retaliatory action when tenants exercise their rights or express habitability concerns. The Act provides for several authorized tenant actions that notify and hold landlords responsible for fixable property defects. If the landlord attempts to deprive the tenant of the use or enjoyment of the premises because the tenant expressed habitability concerns, the Act finds a prima facie case of retaliation. The Act specifically protects landlord action when a tenant damages property or is delinquent in rent. The Act provides for civil penalties against landlords who have retaliated under the statute.
EFFECTIVE DATE:	July 1, 2019

*History*

Georgia consumers have long been concerned about the disparity in landlord and tenant power.<sup>1</sup> Among the top complaints throughout the state are unhealthy and unsafe conditions, failure to make repairs, and illegal eviction tactics.<sup>2</sup> In addition, Atlanta has the third-highest rate of evictions in the country with the largest number affecting low-income renters.<sup>3</sup> Housing instability affects nearly every facet of an individual's life including educational outcomes, uncertainty for families, homelessness, and health.<sup>4</sup> Low-income communities, like Thomasville Heights in Southeast Atlanta, frequently experience conditions like leaking roofs, lack of security, rat infestations, and mold.<sup>5</sup> When tenants complain about these issues, property owners often evict them in retaliation to avoid dealing with both the property issues and the tenant's exercise of his or her rights.<sup>6</sup>

Proponents of House Bill (HB) 346, including its sponsor, Representative Sharon Cooper (R-43rd), highlight the relationship between poor housing conditions and subsequent health issues.<sup>7</sup> Poor housing conditions can be detrimental to children.<sup>8</sup> Mold found in deplorable housing conditions is often responsible for childhood asthma.<sup>9</sup> Children with asthma return to emergency rooms for additional treatment more than children with any other disease.<sup>10</sup> Because children need multiple instances of medical treatment due to mold and asthma, they continue to miss school.<sup>11</sup> If a child misses

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1. Press Release, Office of the Attorney Gen., Carr Reveals Georgia's Top Consumer Complaints for 2017 (July 31, 2018), <https://law.georgia.gov/press-releases/2018-07-31/carr-reveals-georgias-top-consumer-complaints-2017> [https://perma.cc/K2PU-H6TF].

2. *Id.*

3. Nedra Rhone, *Eviction Rates in Metro Atlanta Among the Highest in the Nation*, ATLANTA J.-CONST. (Nov. 3, 2017), <https://www.ajc.com/blog/talk-town/eviction-rates-metro-atlanta-among-the-highest-the-nation/urCf77JRwjO8HncL1flhpN/> [https://perma.cc/5DZ2-H657].

4. Ray Uttenhove, *What is HB 346?*, COMMUNITY FOUND. FOR GREATER ATLANTA (Apr. 25, 2019), <http://cfgreateratlanta.org/2019/04/25/what-is-hb-346/> [https://perma.cc/TKC8-RL8K].

5. *Id.*

6. *Id.*

7. Video Recording of House Judiciary Committee Meeting at 1 hr., 24 min., 40 sec. (Mar. 1, 2019) (remarks by Rep. Sharon Cooper (R-43rd)), <https://youtu.be/DYxUTHRdtQA> [hereinafter House Committee Video].

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

fifteen days of school, excused or unexcused, their chance of graduating high school decreases by 50%.<sup>12</sup> In addition, unlivable conditions force families to move more often.<sup>13</sup> When a family moves, their children may be forced to change schools.<sup>14</sup> Elementary schools in Georgia have transient rates as high as 40%, effectively destroying a child's early education.<sup>15</sup> The Atlanta Volunteer Lawyers Foundation cites high turnover at Atlanta Public Schools as a direct consequence of highly dilapidated conditions in apartment complexes.<sup>16</sup> Chief Justice Harold Melton of the Supreme Court of Georgia focused on housing issues in his State of the Judiciary Address to the House and the Senate.<sup>17</sup> Chief Justice Melton described how mold accumulation in Section 8 apartments has been directly linked to an epidemic of childhood asthma and school absenteeism.<sup>18</sup>

In Georgia, renters have the right to report issues to enforcement agencies and notify landlords about unlivable conditions, and landlords have legal duties to perform repairs.<sup>19</sup> However, tenants often do not have the necessary finances to hire an attorney, and many tenants fear they will be evicted if they report poor living conditions.<sup>20</sup> Often, tenants must weigh the risk of reporting their landlord to a code enforcement agency against being evicted as a result.<sup>21</sup> To further exacerbate the problem, if a tenant sends a report to a code enforcement agency, and is then subsequently evicted, code enforcement suspends the investigation.<sup>22</sup> After the investigation has been suspended, landlords are then free to move another family into

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12. *Id.*

13. Andy Miller, *Ga. Bill Would Protect Tenants Facing Unhealthy Living Conditions*, WABE (Mar. 5, 2019), <https://www.wabe.org/ga-bill-would-protect-tenants-facing-unhealthy-living-conditions/> [<https://perma.cc/G3JB-H9J3>].

14. *Id.*

15. *Id.*

16. *Id.*

17. Video Recording of House Proceedings at 2 hr., 4 min., 10 sec. (Mar. 5, 2019) (remarks by Rep. Sharon Cooper (R-43rd)), [https://youtu.be/LcMZr\\_wS59w](https://youtu.be/LcMZr_wS59w) [hereinafter House Floor Day 27].

18. *Id.*

19. Uttenhove, *supra* note 4.

20. Rhone, *supra* note 3.

21. Uttenhove, *supra* note 4.

22. House Committee Video, *supra* note 7, at 1 hr., 25 min., 20 sec.

the unlivable space without making any of the necessary repairs, and the cycle continues.<sup>23</sup>

Before 2019, forty-one other states had laws banning retaliatory action by landlords.<sup>24</sup> Elizabeth Appley, representing the Georgia Appleseed Center for Law and Justice, notes that Georgia remains the only state that does not provide a warranty of habitability for renters.<sup>25</sup> As a result, tenants have difficulty compelling landlords to make necessary repairs.<sup>26</sup> HB 346 seeks to strengthen tenant protections by shielding tenants from dispossessory proceedings when they rightfully report unlivable conditions to enforcement agencies.

### *Bill Tracking of HB 346*

#### *Consideration and Passage by the House*

Representative Sharon Cooper (R-43rd) primarily wrote HB 346 and served as its sponsor in the House.<sup>27</sup> Her cosponsors included Representatives Houston Gaines (R-117th), Jan Jones (R-47th), and Deborah Silcox (R-52nd).<sup>28</sup> The House read the bill for the first time on February 19, 2019, and for the second time on February 20, 2019.<sup>29</sup> On March 1, 2019, the House Judiciary Committee amended the bill in part and favorably reported the bill by Committee substitute.<sup>30</sup>

In its amendment, the Committee changed the progression of the elements by reordering the contents of subsections (a), (b), and (c) of Section 1.<sup>31</sup> Representative Cooper's initial version of the bill had the protected tenant actions in subsection (a), and the prohibited landlord

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23. *Id.*

24. Miller, *supra* note 12.

25. *Id.*

26. *Id.*

27. Georgia General Assembly, HB 346, Bill Tracking, <http://www.legis.ga.gov/Legislation/en-US/display/20192020/HB/346> [hereinafter HB 346, Bill Tracking].

28. *Id.*

29. State of Georgia Final Composite Status Sheet, HB 346, May 15, 2019.

30. *Id.*

31. Compare HB 346, as introduced, 2019 Ga. Gen. Assemb., with HB 346 (HCS), 2019 Ga. Gen. Assemb.

actions in subsection (b).<sup>32</sup> The Committee altered subsection (a) by removing any additional elements from the subsection and establishing that if tenants meet the elements set forth in subsection (b) and (c), they have established a prima facie case of retaliation.<sup>33</sup> The elements of subsection (a) in the original bill were moved to subsection (b).<sup>34</sup> Elements originally in subsection (b) of the initial version were moved to subsection (c), which describes retaliatory landlord action.<sup>35</sup> Throughout the entire bill, the Committee added language to include “rentals” anytime the provisions mentioned “leases” or “leaseholds.”<sup>36</sup>

During the Committee meeting, Representative Andrew Welch (R-110th) expressed concern that paragraph (4) of subsection (b) was not sufficiently related to habitability issues.<sup>37</sup> After some discussion, the Committee agreed to add the words “relative to the conditions of the property” to paragraph (a)(4).<sup>38</sup> Subsection (c) of Representative Cooper’s initial version became subsection (d) of the revised version.<sup>39</sup> The Committee also removed paragraph (c)(1) of the initial version, which contained redundant language already present in the subsection.<sup>40</sup> It also added the words “the tenant” to subparagraph (d)(2)(D) for clarification.<sup>41</sup> Language referencing subsection (a) was also removed from subparagraph (d)(2)(E) as redundant.<sup>42</sup>

Finally, the Committee changed subsection (e) in a number of meaningful ways. First, it changed “under this Code section” to “pursuant to this Code section,” and added language that “such retaliation shall be a defense to a dispossession action” not present in

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32. See HB 346, as introduced, 2019 Ga. Gen. Assemb.

33. Compare HB 346, as introduced, 2019 Ga. Gen. Assemb., with HB 346 (HCS), 2019 Ga. Gen. Assemb.

34. See HB 346 (HCS), 2019 Ga. Gen. Assemb.

35. See HB 346, as introduced, 2019 Ga. Gen. Assemb.

36. Compare HB 346, as introduced, 2019 Ga. Gen. Assemb., with HB 346 (HCS), 2019 Ga. Gen. Assemb.

37. House Committee Video, *supra* note 7, at 1 hr., 30 min., 45 sec. (remarks by Rep. Andrew J. Welch (R-110th)).

38. *Id.*

39. Compare HB 346, as introduced, 2019 Ga. Gen. Assemb., with HB 346 (HCS), 2019 Ga. Gen. Assemb.

40. See HB 346 (HCS), § 1, p. 1, ll. 28–32, 2019 Ga. Gen. Assemb.

41. *Id.* § 1, p. 1, ll. 55–56.

42. *Id.* § 1, p. 1, ll. 57–58.

Representative Cooper's initial version.<sup>43</sup> The Committee removed language concerning different causes of action for recovery, and instead framed subsection (e) as a valid defense to a dispossession action accompanied by the mandated civil penalty for the landlord.<sup>44</sup> On March 5, 2019, the House read the bill for the third time.<sup>45</sup> After this final reading, the House passed and adopted the Committee substitute of HB 346 by a vote of 131 to 25.<sup>46</sup>

### *Consideration and Passage by the Senate*

Senator Jesse Stone (R-23rd) sponsored HB 346 in the Senate.<sup>47</sup> On March 7, 2019, the Senate read the bill for the first time and referred it to the Senate Committee on Judiciary.<sup>48</sup> On March 20, 2019, the Senate Committee on Judiciary met to discuss the bill.<sup>49</sup> Representative Cooper spoke on the bill's behalf.<sup>50</sup> Rusi Patel, from the Georgia Municipal Association, made remarks from a community improvement perspective in support of the bill.<sup>51</sup> Cole Thaler, an attorney with the Atlanta Volunteer Lawyers Foundation, made supporting remarks from a legal perspective detailing the fear that tenants feel from unsafe conditions and from retaliatory action by landlords.<sup>52</sup> Dana Thompson, of Children's Healthcare of Atlanta, made remarks in support of the bill from a pediatric healthcare perspective.<sup>53</sup> Pamela Kraidler, an attorney employed by Atlanta Legal Aid Society, made remarks from a code enforcement

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43. Compare HB 346, as introduced, 2019 Ga. Gen. Assemb., with HB 346 (HCS), 2019 Ga. Gen. Assemb.

44. *Id.*

45. State of Georgia Final Composite Status Sheet, HB 346, May 15, 2019.

46. Georgia House of Representatives Voting Record, HB 346, #139 (Mar. 5, 2019).

47. HB 346, Bill Tracking, *supra* note 27.

48. State of Georgia Final Composite Status Sheet, HB 346, May 15, 2019.

49. *Id.*; see Video Recording of Senate Committee on Judiciary Meeting at 1 hr., 5 min., 1 sec. (Mar. 20, 2019) (remarks by Rep. Sharon Cooper (R-43rd)), <https://livestream.com/accounts/26021522/events/8751687/videos/194181093> [hereinafter Senate Committee Video].

50. Senate Committee Video, *supra* note 49, at 1 hr., 5 min., 1 sec.

51. *Id.* at 2 hr., 7 min., 3 sec. (remarks by Rusi Patel, General Counsel, Georgia Municipal Association).

52. *Id.* at 2 hr., 9 min., 13 sec. (remarks by Cole Thaler, Co-Director, Safe and Stable Homes Project, Atlanta Volunteer Lawyers Foundation).

53. *Id.* at 2 hr., 13 min., 30 sec. (remarks by Dana Thompson, Children's Healthcare of Atlanta).

perspective in support of the bill.<sup>54</sup> Polly McKinney, of Voices for Georgia’s Children, gave healthcare statistics connecting childhood asthma and low-income housing in support of the bill.<sup>55</sup> With minor amendments and additions, the Committee voted in favor of a motion to pass the bill.<sup>56</sup>

On the Senate Floor, Senator Stone offered an amendment to insert the word “rebuttable” before the word “defense” in subsection (f).<sup>57</sup> On March 22, 2019, the Senate read the bill for the second time.<sup>58</sup> On March 28, 2019, the Senate read the bill for the third time, and voted to adopt the lone amendment by Senator Stone by a vote of 42 to 4.<sup>59</sup> On the same day, the Senate passed the bill by a vote of 34 to 16.<sup>60</sup> On March 29, 2019, the House agreed to the Senate amendments by a vote of 125 to 28.<sup>61</sup> The House sent the bill to Governor Brian Kemp (R) on April 4, 2019.<sup>62</sup> Governor Kemp signed the bill into law more than a month later on May 8, 2019, transmitting it into Act 311.<sup>63</sup> The Act became effective July 1, 2019.<sup>64</sup>

### *The Act*

The Act amends Article 1 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated.<sup>65</sup> The overall purpose of the Act is to “prohibit retaliation by a landlord against a tenant for taking certain actions” and “provide for certain circumstances that are not considered retaliation.”<sup>66</sup> Section 1 of the Act adds Code section 44-7-24 to Article 1 of Chapter 7 of Title 44.<sup>67</sup> The Act maintains all

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54. *Id.* at 2 hr., 15 min., 6 sec. (remarks by Pamela Kraidler, Managing Attorney, Health Law Partnership, Atlanta Legal Aid Society).

55. *Id.* at 2 hr., 19 min., 51 sec. (remarks by Polly McKinney, Polly McKinney, Advocacy Director, Voices for Georgia’s Children).

56. State of Georgia Final Composite Status Sheet, HB 346, May 15, 2019.

57. *See* HB 346 (LC 41 1998S), 2019 Ga. Gen. Assemb.

58. State of Georgia Final Composite Status Sheet, HB 346, May 15, 2019.

59. Georgia Senate Voting Record, HB 346, #311 (Mar. 28, 2019).

60. Georgia Senate Voting Record, HB 346, #312 (Mar. 28, 2019).

61. Georgia House of Representatives Voting Record, HB 346, #348 (Mar. 29, 2019).

62. State of Georgia Final Composite Status Sheet, HB 346, May 15, 2019.

63. *Id.*

64. O.C.G.A. § 44-7-24 (Supp. 2019).

65. 2019 Ga. Laws 1026, § 1, at 1026.

66. 2019 Ga. Laws 1026, at 1026.

67. 2019 Ga. Laws 1026, § 1, at 1026.



of the original language of the other Code sections and repeals all laws in conflict with the Act in Section 2.<sup>68</sup>

### *Section 1*

#### *Prima Facie Case*

Section 1 begins by establishing a cause of action for landlord retaliation.<sup>69</sup> Subsection (a) defines how a tenant may establish a prima facie case for landlord retaliation.<sup>70</sup> There are two parts of the cause of action of retaliation. First, the tenant must demonstrate they took a certain action defined in subsection (b) and second, that the landlord took a certain action defined in subsection (c).<sup>71</sup> Subsection (b) outlines elements that the tenant may use to establish a prima facie case of retaliation.<sup>72</sup> The tenant must satisfy one of the elements listed in subsection (b) to claim retaliation.<sup>73</sup> Paragraph (b)(1) includes that a tenant “exercised or attempted to exercise . . . a right or remedy granted to [them] by contract or law” in good faith.<sup>74</sup> Paragraph (b)(2) covers when a tenant “gave a landlord notice to repair or exercise a remedy.”<sup>75</sup>

Paragraph (b)(3) provides that a tenant must have “complained to a governmental entity responsible for enforcing building or housing codes or to a public utility.”<sup>76</sup> Subparagraphs (b)(3)(A) and (b)(3)(B) expand the requirements under paragraph (b)(3).<sup>77</sup> Subparagraph (b)(3)(A) requires that the tenant claim that it is the landlord’s duty to repair the building or housing violation or utility problem.<sup>78</sup> Further, subparagraph (b)(3)(B) provides that the tenant’s actions under paragraph (b)(3) must be in good faith.<sup>79</sup> Subparagraph (b)(3)(B)

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68. 2019 Ga. Laws 1026, § 2, at 1028.

69. 2019 Ga. Laws 1026, § 1, at 1026.

70. O.C.G.A. § 44-7-24(a) (Supp. 2019).

71. *Id.* § 44-7-24(b)–(c).

72. *Id.* § 44-7-24(b).

73. *Id.*

74. *Id.* § 44-7-24(b)(1).

75. *Id.* § 44-7-24(b)(2).

76. O.C.G.A. § 44-7-24(b)(3) (Supp. 2019).

77. *Id.*

78. *Id.* § 44-7-24(b)(3)(A).

79. *Id.* § 44-7-24(b)(3)(B).

defines good faith as “a reasonable person would believe that the complaint is valid and the violation or problem occurred.”<sup>80</sup> Finally, paragraph (b)(4) controls when a tenant “[e]stablished, attempted to establish, or participated in a tenant organization to address problems related to the habitability of the property, such as life, health, or safety concerns.”<sup>81</sup>

Next, subsection (c) continues to outline the elements of landlord retaliation. If a tenant takes an action outlined in subsection (b), the resulting actions by a landlord may establish a prima facie case of retaliation.<sup>82</sup> Subsection (c) provides a list of actions taken by the landlord that establish a prima facie case of retaliation.<sup>83</sup> Subsection (c) is limited to actions taken within three months after a tenant takes an action listed in subsection (b).<sup>84</sup> Paragraph (c)(1) consists of a provision preventing a landlord from “fil[ing] a dispossessory action.”<sup>85</sup> Paragraph (c)(2) includes a landlord “depriv[ing] the tenant of the use of the premises.”<sup>86</sup> Paragraph (c)(3) covers a landlord “decreas[ing] services to the tenant.”<sup>87</sup> Paragraph (c)(4) includes a landlord “increas[ing] services to the tenant.”<sup>88</sup> Finally, paragraph (c)(5) governs when a landlord “materially interfere[s] with the tenant’s rights under the tenant’s lease or rental agreement.”<sup>89</sup>

### *Exceptions*

The Act also defines actions by the landlord that are not considered retaliation.<sup>90</sup> Paragraph (d)(1) provides that a landlord is not liable for “increasing rent or reducing services” under three scenarios.<sup>91</sup> First, if there is an escalation clause “in a written lease for utilities, tax, or insurance.”<sup>92</sup> Second, if the increase in rent or

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80. *Id.*

81. *Id.* § 44-7-24(b)(4).

82. O.C.G.A. § 44-7-24(c) (Supp. 2019).

83. *Id.*

84. *Id.*

85. *Id.* § 44-7-24(c)(1).

86. *Id.* § 44-7-24(c)(2).

87. *Id.* § 44-7-24(c)(3).

88. O.C.G.A. § 44-7-24(c)(4) (Supp. 2019).

89. *Id.* § 44-7-24(c)(5).

90. 2019 Ga. Laws 1026, § 1, at 1026.

91. § 44-7-24(d)(1).

92. *Id.* § 44-7-24(d)(1)(A).

reduction in services is part of a pattern for an “entire multiunit residential building or complex.”<sup>93</sup> Finally, the landlord is not liable if the increase in rent or reduction in services is “due to the tenant’s or landlord’s participation in a program regulated by this state or the federal government involving the receipt of federal funds, tenant assistance, or tax credits.”<sup>94</sup>

Subparagraphs (d)(2)(A)-(E) provide situations when a landlord is not liable for terminating a rental agreement or a dispossessory action.<sup>95</sup> Under subparagraph (d)(2)(A), a landlord is not liable when the tenant is delinquent in rent at the time the landlord gives notice to vacate.<sup>96</sup> Under subparagraph (d)(2)(B), a landlord is not liable when “[t]he tenant, a member of the tenant’s family, or a guest or invitee of the tenant intentionally damages property on the premises” or threatens “the personal safety of the landlord, the landlord’s employees, or another tenant” by word or conduct.<sup>97</sup> Subparagraph (d)(2)(C) provides the landlord is not liable when the tenant breaches the lease.<sup>98</sup> This subsection includes examples of breach such as “violating lease provisions prohibiting serious misconduct or criminal acts.”<sup>99</sup> Finally, subparagraphs (d)(2)(D) and (d)(2)(E) provide that the landlord is not liable for retaliation for a dispossessory action or termination of rental agreement when the tenant “holds over after the landlord gives notice of termination or intent to vacate” or “after the landlord gives notice of termination at the end of the rental term” that is agreed on in the lease.<sup>100</sup>

### *Remedies and Defenses*

Subsection (e) lists the remedy for retaliation and subsection (f) includes a rebuttable defense. In addition to any other remedies provided by law, subsection (e) provides that retaliation is a defense

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93. *Id.* § 44-7-24(d)(1)(B).

94. *Id.* § 44-7-24(d)(1)(C).

95. *Id.* § 44-7-24(d)(2).

96. *Id.* § 44-7-24(d)(2)(A).

97. O.C.G.A. § 44-7-24(d)(2)(B) (Supp. 2019).

98. *Id.* § 44-7-24(d)(2)(C).

99. *Id.*

100. *Id.* § 44-7-24(d)(2)(D)-(E).

to a dispossessory action.<sup>101</sup> Further, if a landlord retaliates, a tenant may recover a civil penalty of \$500.00, the cost of one month's rent, and "declaratory relief less any delinquent rents or other sums for which the tenant is liable."<sup>102</sup> If the landlord's conduct is "willful, wanton, or malicious" the tenant may also recover reasonable attorney fees.<sup>103</sup>

Subsection (f) provides a rebuttable defense for retaliation when the property in question has been inspected "within the prior 12 months pursuant to any federal, state, or local program which certifies that the property complies with applicable building and housing codes."<sup>104</sup> Further, a landlord has a rebuttable defense when the property is inspected "within the prior 12 months by a code enforcement officer or a licensed building inspector who certifies that the property complies with applicable building and housing codes."<sup>105</sup>

### *Analysis*

The bill was introduced to ensure tenants in "unlivable" conditions have the opportunity to be treated fairly.<sup>106</sup> Representative Sharon Cooper (R-43rd) supported this legislation because of the issues she learned through her involvement as Chairperson of the Health and Human Services Committee.<sup>107</sup> During Committee debates, she raised concerns about children living in houses that were infested with rats and mold.<sup>108</sup> These poor living conditions can lead to a variety of other issues.<sup>109</sup> For example, poor housing conditions can cause children to get sick and miss school.<sup>110</sup> When children miss

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101. *Id.* § 44-7-24(e).

102. *Id.*

103. O.C.G.A. § 44-7-24(e) (Supp. 2019).

104. *Id.* § 44-7-24(f).

105. *Id.*

106. Electronic Mail Interview with Rep. Houston Gaines (R-117th) (May 23, 2019) (on file with the Georgia State University Law Review) [hereinafter Gaines Interview].

107. House Committee Video, *supra* note 7, at 1 hr., 24 min., 40 sec. (remarks by Rep. Sharon Cooper (R-43rd)).

108. *Id.*

109. *Id.*

110. Mark Niese, *Senators Vote to Prevent Evictions by Slum Landlords in Georgia*, ATLANTA J.-CONST. (Mar. 28, 2019), <https://www.ajc.com/news/state—regional-govt—politics/lawmakers-decide-evictions-slum-landlords-georgia/N37V3PbUBtm8c9E3eFP5FJ/> [<https://perma.cc/QN4F-FGWS>].

school, their parents must miss work which “[perpetuates] a cycle of poverty.”<sup>111</sup> This Act gives tenants the opportunity to report poor living conditions to code enforcement without the fear of eviction.<sup>112</sup>

Before this Act, tenants who reported their landlord to code enforcement risked retaliation.<sup>113</sup> Once reported to code enforcement, some landlords began eviction proceedings.<sup>114</sup> After a tenant’s eviction, code enforcement suspended any investigation into the property.<sup>115</sup> Because of this, dilapidated properties were never fully repaired.

With the passage of this bill, tenants have the ability to report poor living conditions to code enforcement without the risk of retaliation.<sup>116</sup> Now, if a landlord takes negative actions in response to a tenant’s living conditions, the tenant has a cause of action against the landlord.<sup>117</sup> Not only does this Act create a defense for a tenant in a dispossessory action, the Act allows a tenant to recover a penalty equal to one month’s rent and a \$500.00 fine.<sup>118</sup>

Although the bill had the support of several prominent housing organizations and advocacy groups, some concern remains that low-income tenants will remain mired in poor living conditions due to the intimidating nature of the court system, and the associated high costs of bringing a civil suit.<sup>119</sup> In addition, legislators that opposed the bill expressed concern because of the onus the Act appears to place on landlords.<sup>120</sup> Opponents expressed fears that landlords would now be forced to affirmatively prove the intent of their actions regarding tenant disputes and certain actions.<sup>121</sup>

Although landlords feared this legislation would prevent them from filing for legitimate evictions, the Act includes several

111. *Id.*

112. *Id.*

113. *Id.*

114. House Committee Video, *supra* note 7, at 1 hr., 24 min., 40 sec. (remarks by Rep. Sharon Cooper (R-43rd)).

115. *Id.*

116. O.C.G.A. § 44-7-24 (Supp. 2019).

117. *Id.*

118. *Id.* § 44-7-24(e).

119. Alexander Popp, *New Georgia Law to Shield Renters from Retaliation*, FORSYTH COUNTY NEWS (July 15, 2019, 12:16 PM), <https://www.forsythnews.com/local/new-georgia-law-shield-renters-retaliation/> [<https://perma.cc/N2LS-Y5ZL>].

120. *Id.*

121. *Id.*

exclusions.<sup>122</sup> Landlords continue to have the ability to evict tenants for valid reasons such as failing to pay rent or breaking the terms of the rental agreement.<sup>123</sup> Further, this Act prevents tenants from bringing frivolous claims of retaliation by providing a rebuttable defense.<sup>124</sup> If a landlord has had their property inspected in a certain time frame or the property is certified before the tenant's complaints, the landlord has a rebuttable defense for retaliation.<sup>125</sup> In sum, this Act was enacted to protect the "life, health, [and] safety" of tenants.<sup>126</sup>

*Joseph N. Guardino & Megan A. Kirk*

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122. Niese, *supra* note 111.

123. § 44-7-24(d).

124. *Id.* § 44-7-24(f).

125. *Id.*

126. *Id.* § 44-7-24(a).