

HB 346

Effective Date: July 1, 2019

Signed by Governor Kemp: May 2019

HB 346 seeks to protect families living in rental homes facing mold, leaking roofs, rats, insect infestations, lead, radon, and unsafe electrical and other conditions when they exercise their right to seek repairs and complain to code enforcement.

The new law prohibits landlords from retaliating against tenants with dispossessory action for reporting code violations to local authorities or requesting repairs. The law provides that tenants, without fear of retaliation, shall be permitted to:

- Exercise against a landlord a right or remedy granted to the tenant by lease, municipal ordinance or federal or state statute
- Give a landlord a notice to repair or exercise a remedy
- Complain to a government entity about a building or code violation
- Establish or participate in a tenant organization

If a tenant takes one of these actions, and within 3 months the landlord evicts the tenant, terminates the lease, or reduces services as a result, the tenant may use the landlord's retaliation as a defense to a dispossessory action in court. Most importantly, there are penalties against a landlord that are spelled out if a tenant wins in court, including a financial penalty and reimbursement for court costs and in some cases attorney's fees.

Under the new law, the following is *not* considered retaliation:

- Increasing rent or reducing services:
 - under an escalation clause in a written lease;
 - as part of a pattern for an entire multiunit residential building or complex;
 - due to the terms of participation in certain state or federal government programs;
- Filing a dispossessory action or lease termination where:
 - the tenant is delinquent in rent;
 - the tenant, a member of the tenant's family, or an invitee of the tenant intentionally damages property on the premises or by word or conduct threatens the personal safety of the landlord, the landlord's employees, or another tenant;
 - the tenant has breached the lease, other than by holding over, by an action such as violating written lease provisions prohibiting serious misconduct or criminal acts;
 - the tenant holds over after the tenant gives notice of termination or intent to vacate; or
 - the tenant holds over after the landlord gives notice of termination at the end of the rental term as agreed upon in the written lease.