

House Bill 281

By: Representative Holcomb of the 81st

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 enact the "Tenant Victim Protection Act"; to provide for a short
3 title; to provide for definitions; to provide for victims of family violence, sexual assault,
4 stalking, or unlawful harassment who are tenants to terminate rental agreements; to provide
5 for procedures and a form regarding same; to provide for the discharge of such tenants'
6 obligation to pay rent; to protect against the waiver of certain confidential or privileged
7 communications; to protect tenants from retaliation or discrimination for terminating rental
8 agreements; to provide for applicability; to provide for related matters; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to landlord and
13 tenant, is amended by adding a new article to read as follows:

14 "ARTICLE 6

15 44-7-120.

16 This chapter shall be known and may be cited as the 'Georgia Tenant Victim Protection
17 Act.'

18 44-7-121.

19 As used in this article, the term:

20 (1) 'Family violence' has the same meaning as set forth in Code Section 19-13-1.

21 (2) 'Health care provider' has the same meaning as set forth in paragraph (8) of Code
22 Section 31-32-2.

23 (3) 'Household member' means a child or adult residing with the tenant other than the
 24 perpetrator of family violence, stalking, unlawful harassment, or sexual assault.

25 (4) 'Landlord' means the owner, lessor, or sublessor of the dwelling unit or the property
 26 of which it is a part or any person designated as a representative of the owner, lessor, or
 27 sublessor, including, but not limited to, an agent, a resident manager, or a designated
 28 property manager or their employees.

29 (5) 'Qualified third party' means any of the following people acting in their official
 30 capacity:

31 (A) Law enforcement officers;

32 (B) Health care providers;

33 (C) Employees of a court of the state;

34 (D) Licensed mental health professionals or other licensed counselors;

35 (E) Employees of any victim assistance program, including programs operated by
 36 public officers, that receives funds pursuant to Article 8 of Chapter 21 of Title 15, who
 37 are trained advocates for such program; and

38 (F) Members of the clergy as defined in paragraph (6) of subsection (b) of Code
 39 Section 19-7-5.

40 (6) 'Rental agreement' means a right of occupancy pursuant to a written, valid lease or
 41 other agreement for such purpose.

42 (7) 'Sexual assault' has the same meaning as set forth in paragraph (3) of Code Section
 43 17-5-70.

44 (8) 'Stalking' has the same meaning as set forth in Code Section 16-5-90.

45 (9) 'Tenant' means an occupant who resides in a dwelling unit with the actual knowledge
 46 and permission of the landlord.

47 (10) 'Tenant screening service provider' means any nongovernmental agency that
 48 provides, for a fee, background information on prospective tenants to landlords.

49 (11) 'Unlawful harassment' has the same meaning as set forth in paragraph (2) of
 50 subsection (a) of Code Section 17-17-16 and includes any request for sexual favors to a
 51 tenant or household member in return for a change in or performance of any or all terms
 52 of a lease or rental agreement.

53 44-7-122.

54 (a)(1) If a tenant notifies the landlord in writing that he or she or a household member
 55 was a victim of an act that constitutes a crime of family violence, sexual assault, unlawful
 56 harassment, or stalking, and:

57 (A) The tenant or the household member has a valid order for protection under Chapter
 58 13 of Title 19; or

59 (B) The tenant or the household member has reported the family violence, sexual
 60 assault, unlawful harassment, or stalking to a qualified third party acting in his or her
 61 official capacity and the qualified third party has provided the tenant or the household
 62 member a written record of the report signed by the qualified third party.

63 then paragraph (2) of this subsection shall apply.

64 (2)(A) When a copy of a valid order for protection or a written record of a report
 65 signed by a qualified third party, as required under paragraph (1) of this subsection, is
 66 made available to the landlord, the tenant may terminate the rental agreement and
 67 vacate the dwelling unit without further obligation under the rental agreement or under
 68 this chapter. However, the request to terminate the rental agreement must occur within
 69 30 days of the reported act, event, or circumstance that gave rise to the protective order
 70 or report to a qualified third party. The termination of a rental agreement in accordance
 71 with this Article shall be an affirmative defense to a civil suit brought by a landlord to
 72 enforce a rental agreement against a tenant so terminating a rental agreement.

73 (B) A record of the report to a qualified third party that is provided to the tenant or
 74 household member shall consist of a document signed and dated by the qualified third
 75 party stating:

76 (i) That the tenant or the household member notified him or her that he or she was a
 77 victim of an act or acts that constitute a crime of family violence, sexual assault,
 78 unlawful harassment, or stalking;

79 (ii) The time and date the act or acts occurred;

80 (iii) The location where the act or acts occurred;

81 (iv) A brief description of the act or acts of family violence, sexual assault, unlawful
 82 harassment, or stalking; and

83 (v) That the tenant or the household member informed him or her of the name of the
 84 alleged perpetrator of the act or acts.

85 (C) The record of the report provided to the tenant or the household member shall not
 86 include the name of the alleged perpetrator of the act or acts of family violence, sexual
 87 assault, unlawful harassment, or stalking. The qualified third party shall keep a copy of
 88 the record of the report and shall note on the retained copy the name of the alleged
 89 perpetrator of the act or acts of family violence, sexual assault, unlawful harassment, or
 90 stalking. The record of the report to a qualified third party may be accomplished by
 91 completion of a form provided by the qualified third party, in substantially the following
 92 form:

93 RECORD OF REPORT OF QUALIFIED THIRD PARTY

94 _____
95 (Name of organization, agency, clinic, professional service provider)

96 I and/or my (household member) am/is a victim of (select all that apply):
97 _____ family violence as defined by Code Section 19-13-1.
98 _____ sexual assault as defined by paragraph (3) of Code Section 17-5-70.
99 _____ stalking as defined by Code Section 16-5-90.
100 _____ unlawful harassment as defined by paragraph (2) of subsection (a) of Code
101 Section 17-17-16.

102 Briefly describe the incident of family violence, sexual assault, unlawful harassment,
103 or stalking: _____
104 _____
105 _____

106 The incident(s) that I rely on in support of this declaration occurred on the following
107 date(s) and time(s) and at the following location(s): _____
108 _____
109 _____

110 The incident(s) that I rely on in support of this declaration were committed by the
111 following person(s): _____
112 _____
113 _____

114 I state under penalty of perjury under the laws of the State of Georgia that the
115 foregoing is true and correct.

116 Dated at _____ (city), Georgia,
117 this _____ day of _____, 20 _____.

118 _____
119 (Signature of Tenant or Household Member)

120 I verify that I have provided to the person whose signature appears above the statutes
121 cited in Code Section 44-7-122 and that the individual was a victim of an act that

122 constitutes a crime of family violence, sexual assault, unlawful harassment, or
 123 stalking, and that the individual informed me of the name of the alleged perpetrator
 124 of the act.

125 Dated this _____ day of _____, 20__.

126 _____
 127 (Signature of authorized officer/employee
 128 of organization, agency, clinic,
 129 professional service provider)

130 (b) A tenant who terminates a rental agreement under this Code section is discharged from
 131 the payment of rent for any period following the last day of the month of the date such
 132 tenant vacates the dwelling unit. The tenant shall remain liable for the rent for the month
 133 in which he or she terminated the rental agreement unless the termination is in accordance
 134 with Code Section 44-7-7. Notwithstanding lease provisions that allow for forfeiture of a
 135 deposit for early termination, a tenant who terminates under this Code section is entitled
 136 to the return of the full deposit, subject to Code Section 44-7-34. Other tenants who are
 137 parties to the rental agreement, except household members who are the victims of family
 138 violence, sexual assault, stalking, or unlawful harassment, are not released from their
 139 obligations under the rental agreement or other obligations under this chapter.

140 (c)(1)(A) Notwithstanding any other provision under this Code section, if a tenant or
 141 a household member is a victim of sexual assault, stalking, or unlawful harassment by
 142 a landlord, the tenant may terminate the rental agreement and vacate the dwelling unit
 143 without further obligation under the rental agreement or under this chapter prior to
 144 making a copy of a valid order for protection or a written record of a report signed by
 145 a qualified third party available to the landlord, provided that:

146 (i) The tenant must deliver a copy of a valid order for protection or written record of
 147 a report signed by a qualified third party to the landlord by mail or statutory overnight
 148 delivery within seven days of vacating such tenant's dwelling unit; and
 149 (ii) A written record of a report signed by the qualified third party shall be
 150 substantially in the form specified under paragraph (2) of subsection (a) of this Code
 151 section. The record of the report provided to the landlord shall not include the name
 152 of the alleged perpetrator of the act.

153 (B) On written request by the landlord, the qualified third party shall, within seven
 154 days of receiving the report, provide the name of the alleged perpetrator of the act to
 155 the landlord only if the alleged perpetrator was a person meeting the definition of the
 156 term landlord under paragraph (5) of Code Section 44-7-121.

157 (2)(A) A tenant who terminates his or her rental agreement under this subsection is
158 discharged from the payment of rent for any period following the latter of:
159 (i) The date the tenant vacates the dwelling unit; or
160 (ii) The date the record of the report of the qualified third party and the written notice
161 that the tenant has vacated are delivered to the landlord by mail or statutory overnight
162 delivery.
163 (B) The tenant is entitled to a pro rata refund of any prepaid rent and must receive a
164 full and specific statement of the basis for retaining any of the deposit together with any
165 refund due in accordance with Code Section 44-7-34.
166 (d) A tenant's remedies under this Code section shall not preempt any other legal remedy
167 available to the tenant.
168 (e) The provision of verification of a report under paragraph (2) of subsection (a) of this
169 Code section shall not waive any confidential or privileged nature of the communication
170 between a victim of family violence, sexual assault, or stalking and a qualified third party.
171 No record or evidence obtained from such disclosure may be used in any civil,
172 administrative, or criminal proceeding against the victim unless a written waiver of
173 applicable evidentiary privilege is obtained, except that the verification itself, and no other
174 privileged information, under paragraph (2) of subsection (a) of this Code section may be
175 used in civil proceedings brought under this Code section.
176 (f) Any person who gives false information in the procurement of the record of a report to
177 a qualified third party shall be guilty of a misdemeanor.

178 44-7-123.

179 (a) A tenant screening service provider shall not:
180 (1) Disclose a tenant's, applicant's, or household member's status as a victim of family
181 violence, sexual assault, stalking, or unlawful harassment; or
182 (2) Knowingly disclose that a tenant, applicant, or household member has previously
183 terminated a rental agreement under Code Section 44-7-122.
184 (b) A landlord shall not terminate a tenancy, fail to renew a tenancy, or refuse to enter into
185 a rental agreement based on the tenant's, applicant's, or household member's status as a
186 victim of family violence, sexual assault, stalking, or unlawful harassment or based on the
187 tenant or applicant having terminated a rental agreement under Code Section 44-7-122.
188 (c) A landlord who refuses to enter into a rental agreement in violation of subsection (b)
189 of this Code section may be liable to the tenant or applicant in a civil action for damages
190 sustained by the tenant or applicant. The prevailing party may also recover court costs and
191 reasonable attorneys' fees.

192 (d) This Code section shall not prohibit adverse housing decisions based upon other lawful
193 factors within the landlord's knowledge or prohibit volunteer disclosure by an applicant of
194 any victim circumstances. This article shall apply to rental agreements entered into or
195 renewed after the effective date of this article."

196 **SECTION 2.**

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