

The Senate Committee on Public Safety offered the following substitute to SB 470:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 11 of Title 44 of the Official Code of Georgia Annotated,  
2 relating to proceedings against intruders, so as to create a notice of vacancy; to provide for  
3 removal of unlawful occupants on land or tenements; to require certain law enforcement  
4 agencies to act; to provide for a deadline for such; to provide for fees; to provide that  
5 properties for which a notice of vacancy was filed shall not be subject to public disclosure  
6 absent a subpoena or court order; to amend Article 4 of Chapter 18 of Title 50 of the Official  
7 Code of Georgia Annotated, relating to inspection of public records, so as to provide for  
8 conforming changes; to provide for related matters; to repeal conflicting laws; and for other  
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 11 of Title 44 of the Official Code of Georgia Annotated, relating to  
13 proceedings against intruders, is amended by adding a new Code section to read as follows:

14 "44-11-34.

15 (a) A person, either by himself or herself, an agent, or an attorney in fact, shall file a notice  
16 of vacancy by subscribing an affidavit in writing before any officer authorized to  
17 administer an oath setting forth:

18 (1) That he or she claims, in good faith, the right of possession to the described land or  
19 tenement;

20 (2) That such land or tenement is presently vacant and absent of any occupant either  
21 lawful or unlawful; and

22 (3) That it is the affiant's intention that such land or tenement remain vacant until a date  
23 certain as described in the affidavit.

24 (b) The notice of vacancy described in subsection (a) of this Code section shall be filed in  
25 the superior court of the county or counties within which such land or tenement lies and  
26 shall remain in effect until such date certain or until an earlier date in which such notice of  
27 vacancy is withdrawn by the affiant.

28 (c) The sheriff, marshal, or like officer of the court shall enforce the notice of vacancy  
29 which shall have the force and effect of a lawful order against any person or persons  
30 occupying the land or tenement described in the notice of vacancy by removal of the person  
31 or persons from the premises using necessary force, including forced entry. It shall be the  
32 responsibility of the landlord to pay the repair cost for any real property damage caused by  
33 law enforcement in the reasonable performance of their duties under this Code section and  
34 place the personal property left by such person or persons on some portion of the landlord's  
35 property or on other property as may be designated by the landlord and as may be approved  
36 by the executing officer; provided, however, that the landlord shall not be a bailee of such  
37 personal property and shall owe no duty to the tenant regarding such personal property.  
38 After execution of the notice of vacancy, such personal property shall be regarded as  
39 abandoned.

40 (d) A person, on any day between filing the notice of vacancy and the date certain  
41 described in the notice, may complain to the sheriff, marshal, or other officer of the court  
42 authorized to execute writs of possession and provide such law enforcement agency with  
43 the notice of vacancy certified by the clerk of the superior court in which the notice of  
44 vacancy was filed.

45 (e) Such law enforcement agency shall take the action described in subsection (c) of this  
46 Code section at the earliest possible day but in no case later than 168 hours from receiving  
47 the complaint and notice of vacancy described in subsection (d) of this Code section.

48 (f) Nothing in this Code section shall affect or preclude the right of any party to any  
49 recovery otherwise authorized by common law, statute, law, or rule.

50 (g) The total fees and other costs charged for filing, altering, or removing a notice of  
51 vacancy pursuant to this Code section shall not exceed \$10.00.

52 (h) To accomplish the valid public purpose of protecting privately owned property from  
53 unlawful occupancy, any information relating to a property as one for which a notice of  
54 vacancy has previously been filed shall not be subject to public disclosure, except upon  
55 subpoena or judicial order from a court of competent jurisdiction."

56

## SECTION 2.

57 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to  
58 inspection of public records, is amended in subsection (a) of Code Section 50-18-72, relating  
59 to when public disclosure not required, by deleting "or" at the end of paragraph (50), by  
60 replacing the period with "; or" at the end of paragraph (51), and by adding a new paragraph  
61 to read as follows:

62 "(52) Any information relating to a property as one for which a notice of vacancy has  
63 previously been filed pursuant to Code Section 44-11-34."

64

**SECTION 3.**

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