

Senate Bill 162

By: Senators Meyer von Bremen of the 12<sup>th</sup>, Lee of the 29<sup>th</sup> and Walker of the 22<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 41 of the Official Code of Georgia Annotated, relating to  
2 abatement of nuisances generally, so as to clarify the conditions under which property is  
3 considered a public health hazard; to change the provisions relating to the power of counties  
4 and municipalities to repair, close, or demolish unfit buildings or structures; to provide for  
5 the power of counties and municipalities with respect to buildings which are not in  
6 compliance with the applicable state minimum standard codes as adopted by ordinance or  
7 operation of law; any optional building, fire, life safety, or other codes relative to the safe use  
8 of real property adopted by ordinance in the jurisdiction where the property is located; or  
9 general nuisance law; to change the definition of certain terms; to define additional terms;  
10 to change the provisions relating to county or municipal ordinances relating to unfit buildings  
11 or structures; to provide for the adoption and enforcement of county ordinances relating to  
12 nuisances; to provide for filing and adjudication of a complaint in rem; to provide for service  
13 of process; to provide that costs expended by a local government to make property safe shall  
14 be treated and collected in the same manner as tax liens; to change other provisions relating  
15 to service of complaints or orders upon parties in interest and owners of unfit buildings or  
16 structures; to provide protection for the rights of minors, estates, incompetent persons,  
17 unknown persons, and unborn remaindermen; to provide procedures; to change the  
18 provisions relating to prior ordinances relating to the repair, closing, or demolition of unfit  
19 buildings or structures; to provide for related matters; to provide an effective date; to repeal  
20 conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Chapter 2 of Title 41 of the Official Code of Georgia Annotated, relating to abatement of  
24 nuisances generally, is amended by striking in its entirety Code Section 41-2-7, relating to  
25 the power of counties and municipalities to repair, close, or demolish unfit buildings or  
26 structures, and inserting in lieu thereof a new Code Section 41-2-7 to read as follows:

1 "41-2-7.

2 (a) It is found and declared that in the counties and municipalities of this state there is the  
 3 existence or occupancy of dwellings or other buildings or structures which are ~~unfit for~~  
 4 ~~human habitation or for commercial, industrial, or business occupancy or use~~ not in  
 5 compliance with the applicable state minimum standard codes as adopted by ordinance or  
 6 operation of law; any optional building, fire, life safety, or other codes relative to the safe  
 7 use of real property and real property improvements adopted by ordinance in the  
 8 jurisdiction where the property is located; or general nuisance law and ~~are inimical to the~~  
 9 ~~welfare and are dangerous and injurious~~ which pose a substantial risk of injury to the  
 10 health, safety, and welfare of the people of this state; and that a public necessity exists for  
 11 the repair, closing, or demolition of such dwellings, buildings, or structures. It is found and  
 12 declared that in the counties and municipalities of this state where there is in existence a  
 13 condition or use of real estate which renders adjacent real estate unsafe or inimical to safe  
 14 human habitation, such use is dangerous and injurious to the health, safety, and welfare of  
 15 the people of this state and a public necessity exists for the repair of such condition or the  
 16 cessation of such use which renders the adjacent real estate unsafe or inimical to safe  
 17 human habitation. Whenever the governing authority of any county or municipality of this  
 18 state finds that there exist in such county or municipality dwellings, buildings, or structures  
 19 which are ~~unfit for human habitation or for commercial, industrial, or business uses due to~~  
 20 ~~dilapidation and~~ not in compliance with applicable codes; which have defects increasing  
 21 the hazards of fire, accidents, or other calamities; which lack of adequate ventilation, light,  
 22 or sanitary facilities; or where other conditions exist rendering such dwellings, buildings,  
 23 or structures unsafe or unsanitary, or dangerous or detrimental to the health, safety, or  
 24 welfare, or otherwise inimical to the welfare of the residents of such county or  
 25 municipality, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes  
 26 are being committed, power is conferred upon such county or municipality to exercise its  
 27 police power to repair, close, or demolish the aforesaid dwellings, buildings, or structures  
 28 in the manner provided in this Code section and Code Sections 41-2-8 through 41-2-17.

29 (b) All the provisions of this Code section and Code Sections 41-2-8 through 41-2-17  
 30 including method and procedure may also be applied to private property where an  
 31 accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions shall  
 32 create a public health hazard or a general nuisance to those persons residing or working in  
 33 the vicinity. A finding by any governmental health department, health officer, fire marshal  
 34 or inspector, or building inspector that such property is a health or safety hazard shall  
 35 constitute prima-facie evidence that said property is in violation of this Code section and  
 36 Code Sections 41-2-8 through 41-2-17.

1 (c) The exercise of the powers conferred upon counties in this Code section and in Code  
 2 Sections 41-2-8 through 41-2-17 shall be limited to properties located in the unincorporated  
 3 areas of such counties."

#### 4 SECTION 2.

5 Said chapter is further amended by striking in its entirety Code Section 41-2-8, relating to  
 6 definitions applicable to Code Sections 41-2-7 through 41-2-17, and inserting in lieu thereof  
 7 a new Code Section 41-2-8 to read as follows:

8 "41-2-8.

9 As used in Code Section 41-2-7, this Code section, and Code Sections 41-2-9 through  
 10 41-2-17, the term:

11 (1) 'Applicable codes' means the applicable state minimum standard codes provided in  
 12 Code Section 8-2-20 and as adopted by ordinance or operation of law; any optional  
 13 building, fire, life safety, or other codes relative to the safe use of real property and real  
 14 property improvements adopted by ordinance in the jurisdiction where the property is  
 15 located; or general nuisance law.

16 ~~(1)(2)~~ (2) 'Closing' means securing and causing a dwelling, building, or structure to be  
 17 vacated and secured against unauthorized entry.

18 ~~(2)(3)~~ (3) 'Drug crime' means an act which is a violation of Article 2, 3, or 4 of Chapter 13  
 19 of Title 16, relating to controlled substances, dangerous drugs, and model glue, known  
 20 as the 'Georgia Controlled Substances Act.' or Code Section 16-3-3, or which prohibits  
 21 the abandonment of dangerous drugs, poisons, or controlled substances.

22 ~~(3)(4)~~ (4) 'Dwellings, buildings, or structures' means any building or structure or part thereof  
 23 used and occupied for human habitation or commercial, industrial, or business uses, or  
 24 intended to be so used, and includes any outhouses, improvements, and appurtenances  
 25 belonging thereto or usually enjoyed therewith and also includes any building or structure  
 26 of any design. As used in Code Section 41-2-7, this Code section, and Code Sections  
 27 41-2-9 through 41-2-17, the term 'dwellings, buildings, or structures' shall not mean or  
 28 include any farm, any building or structure that has not been abandoned and is located on  
 29 a farm, or any agricultural facility or other building or structure used for the production,  
 30 growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other  
 31 farm products, or any building or structure that has been designated as historic property  
 32 as defined in subsection (c) of Code Section 41-2-9.

33 ~~(4)(5)~~ (5) 'Governing body authority' means the board of commissioners or sole  
 34 commissioner of a county or the council, board of commissioners, board of aldermen, or  
 35 other legislative body charged with governing a municipality.

36 ~~(5)(6)~~ (6) 'Municipality' means any incorporated city within this state.

1 ~~(6)~~(7) 'Owner' means the holder of the title in fee simple and every mortgagee of record.

2 ~~(7)~~(8) 'Parties in interest' means persons ~~in possession of said property and all~~  
 3 ~~individuals, associations, and corporations who have interest of record in the county~~  
 4 ~~where the property is located in a dwelling, building, or structure, including executors,~~  
 5 ~~administrators, guardians, and trustees~~ having of record in the county in which the  
 6 dwelling, building, or structure is located any vested right, title, or interest in or lien upon  
 7 such dwelling, building, or structure or the lot, tract, or parcel of real property upon  
 8 which the structure is situated or upon which the public health hazard or general nuisance  
 9 exists based upon a 50 year title examination conducted in accordance with the title  
 10 standards of the State Bar of Georgia.

11 ~~(8)~~(9) 'Public authority' means any member of a governing authority, any housing  
 12 authority officer, or any officer who is in charge of any department or branch of the  
 13 government of the municipality, county, or state relating to health, fire, or building  
 14 regulations or to other activities concerning dwellings, buildings, or structures in the  
 15 county or municipality.

16 ~~(9)~~(10) 'Public officer' means the officer or officers who are authorized by Code Section  
 17 41-2-7, this Code section, and Code Sections 41-2-9 through 41-2-17 and by ordinances  
 18 adopted under Code Section 41-2-7, this Code section, and Code Sections 41-2-9 through  
 19 41-2-17 to exercise the powers prescribed by such ordinances or any agent of such officer  
 20 or officers.

21 ~~(10)~~(11) 'Repair' means ~~closing a dwelling, building, or structure or~~ altering or improving  
 22 a dwelling, building, or structure so as to bring the structure into compliance with the  
 23 applicable codes in the jurisdiction where the property is located and the cleaning or  
 24 removal of debris, trash, and other materials present and accumulated which create a  
 25 health or safety hazard in or about any dwelling, building, or structure.

26 (12) 'Resident' means any person residing in the jurisdiction where the property is  
 27 located on or after the date on which the alleged nuisance arose."

### 28 SECTION 3.

29 Said chapter is further amended by striking in its entirety Code Section 41-2-9, relating to  
 30 county or municipal ordinances relating to unfit buildings or structures, and inserting in lieu  
 31 thereof a new Code Section 41-2-9 to read as follows:

32 "41-2-9.

33 ~~(a) As used in this Code section, the term 'resident' means any person residing in the~~  
 34 ~~affected jurisdiction on or before the date on which the alleged nuisance arose.~~

35 ~~(b)~~(a) In addition to any other remedies or enforcement mechanisms available, upon Upon  
 36 the adoption of an ordinance finding that dwelling, building, or structure conditions of the

1 character described in Code Section 41-2-7 exist within a county or municipality, the  
 2 governing body of such county or municipality is authorized to adopt ordinances relating  
 3 to the dwellings, buildings, or structures within such county or municipality which are unfit  
 4 ~~for human habitation or commercial, industrial, or business uses~~ not in compliance with  
 5 applicable codes, which are vacant and being used in connection with the commission of  
 6 drug crimes, or which constitute a public health hazard or a general nuisance as a result of  
 7 an accumulation of weeds, trash, filth, and other unsanitary or unsafe conditions. Such  
 8 ordinances shall include at least the following provisions:

9 (1) That it is the duty of the owner of every dwelling, building, structure, or property  
 10 within the jurisdiction to construct and maintain such dwelling, building, structure, or  
 11 property in conformance with applicable state minimum standard codes and such optional  
 12 building, fire, life safety, and other codes as adopted by ordinance and in force within the  
 13 jurisdiction, or such ordinances which regulate and prohibit activities on property and  
 14 which declare it to be a public nuisance to construct or maintain any dwelling, building,  
 15 structure, or property in violation of such codes or ordinances;

16 ~~(1)~~(2) That a public officer be designated or appointed to exercise the powers prescribed  
 17 by the ordinances;

18 ~~(2)~~(3) That whenever a request is filed with the public officer by a public authority or by  
 19 at least five residents of the municipality or by five residents of the unincorporated area  
 20 of the county if the property in question is located in the unincorporated area of the  
 21 county charging that any dwelling, building, ~~or structure,~~ or property is unfit for human  
 22 habitation ~~or for commercial, industrial, or business use or whenever it appears to the~~  
 23 ~~public officer (on his own motion) that any dwelling, building, or structure is unfit for~~  
 24 ~~human habitation or is unfit for its current commercial, industrial, or business use or~~ not  
 25 in compliance with applicable codes, is vacant, ~~dilapidated,~~ and being used in connection  
 26 with the commission of drug crimes, or constitutes a public health hazard and general  
 27 nuisance as a result of an accumulation of weeds, trash, filth, and other unsanitary or  
 28 unsafe conditions, the public officer shall, ~~if his preliminary investigation discloses a~~  
 29 ~~basis for such charges, issue and cause to be served upon the owner of and any parties in~~  
 30 ~~interest in such dwelling, building, or structure a complaint stating the charges in that~~  
 31 ~~respect and containing a notice that a hearing will be held before the public officer (or his~~  
 32 ~~designated agent) at a place within the county or municipality in which the property is~~  
 33 ~~located, fixed not less than ten days nor more than 30 days after the serving of said~~  
 34 ~~complaint, that the owner and any parties in interest shall be given the right to file an~~  
 35 ~~answer to the complaint and to appear in person, or otherwise, and give testimony at the~~  
 36 ~~place and time fixed in the complaint, and that the rules of evidence prevailing in courts~~  
 37 ~~of law or equity shall not be controlling in hearings before the public officer~~ make an

1 investigation or inspection of the specific dwelling, building, structure, or property. If the  
 2 officer's investigation or inspection identifies one or more violations of provisions of the  
 3 applicable codes which violations create a substantial risk of injury to persons or hazard  
 4 to the public health, safety, or welfare, the public officer may issue a complaint in rem  
 5 against the lot, tract, or parcel of real property on which such dwelling, building, or  
 6 structure is situated or where such public health hazard or general nuisance exists and  
 7 shall cause summons and a copy of the complaint to be served on the owner and parties  
 8 in interest in such dwelling, building, or structure. The complaint shall identify the  
 9 subject real property by appropriate street address and official tax map reference; identify  
 10 the owner and parties in interest; state with particularity the factual basis for the action;  
 11 and contain a statement of the action sought by the public officer to abate the alleged  
 12 nuisance. The summons shall notify the owner and parties in interest that a hearing will  
 13 be held before a court of competent jurisdiction as determined by Code Section 41-2-5,  
 14 at a date and time certain and at a place within the county or municipality where the  
 15 property is located. Such hearing shall be held not less than 15 days nor more than 45  
 16 days after the filing of said complaint in the proper court. The owner and parties in  
 17 interest shall have the right to file an answer to the complaint and to appear in person or  
 18 by attorney and offer testimony at the time and place fixed for hearing;

19 ~~(3)~~(4) That if, after such notice and hearing, the ~~public officer~~ court determines that the  
 20 dwelling, building, or structure ~~under consideration in question~~ is unfit for human  
 21 ~~habitation or is unfit for its current commercial, industrial, or business use or not in~~  
 22 ~~compliance with applicable codes,~~ is vacant, dilapidated, and being used in connection  
 23 with the commission of drug crimes, or constitutes a public health hazard and general  
 24 nuisance as a result of an accumulation of weeds, trash, filth, and other unsanitary or  
 25 unsafe conditions, he the court shall state in writing his findings of fact in support of such  
 26 determination and shall issue and cause to be served upon the owner and any parties in  
 27 interest that have answered the complaint or appeared at the hearing ~~thereof~~ an order:

28 (A) If the repair, alteration, or improvement of the said dwelling, building, or structure  
 29 can be made at a reasonable cost in relation to the present value of the dwelling,  
 30 building, or structure, requiring the owner, ~~or parties in interest,~~ within the time  
 31 specified in the order, to repair, alter, or improve such dwelling, building, or structure  
 32 so as to ~~render it fit for human habitation or for current commercial, industrial, or~~  
 33 ~~business use or to vacate and close the dwelling, building, or structure as a human~~  
 34 habitation bring it into full compliance with the applicable codes and to secure the  
 35 structure so that it cannot be used in connection with the commission of drug crimes;  
 36 or

1 (B) If the repair, alteration, or improvement of the said dwelling, building, or structure  
 2 in order to bring it into full compliance with applicable codes cannot be made at a  
 3 reasonable cost in relation to the present value of the dwelling, building, or structure,  
 4 requiring the owner, ~~or parties in interest~~, within the time specified in the order, to  
 5 ~~remove or demolish~~ and remove such dwelling, building, or structure and all debris  
 6 from the property.

7 For purposes of this Code section, the court shall make its determination of 'reasonable  
 8 cost in relation to the present value of the dwelling, building, or structure' without  
 9 consideration of the value of the land on which the structure is situated; provided,  
 10 however, that costs of the preparation necessary to repair, alter, or improve a structure  
 11 may be considered. Income and financial status of the owner shall not be factor in the  
 12 court's determination. The present value of the structure and the costs of repair,  
 13 alteration, or improvement may be established by affidavits of real estate appraisers with  
 14 a Georgia appraiser classification as provided in Chapter 39A of Title 43, qualified  
 15 building contractors, or qualified building inspectors without actual testimony presented.  
 16 Costs of repair, alteration, or improvement of the structure shall be the cost necessary to  
 17 bring the structure into compliance with the state minimum standard codes and those  
 18 optional building, fire, life safety, and other codes adopted by ordinance and in force in  
 19 the jurisdiction; In no event shall the governing authority of any such county or  
 20 municipality require removal or demolition of any dwelling, building, or structure except  
 21 upon a finding that the cost of repair, alteration, or improvement thereof exceeds one-half  
 22 the value such dwelling, building, or structure will have when repaired to satisfy the  
 23 minimum requirements of this law;

24 ~~(4)~~(5) That, if the owner ~~or parties in interest fail~~ fails to comply with an order to ~~vacate~~  
 25 ~~and close~~ repair or demolish the dwelling, building, or structure, the public officer may  
 26 cause such dwelling, building, or structure to be repaired, altered, or improved or to be  
 27 vacated and closed or demolished, ~~and that the~~ The public officer may shall cause to be  
 28 posted on the main entrance of any the building, dwelling, or structure ~~so closed~~ a placard  
 29 with the following words:

30 "This building is unfit for human habitation or commercial, industrial, or business use  
 31 because it does not comply with the state minimum standard codes or local building,  
 32 fire, life safety, or other codes or has been ordered secured to prevent its use in  
 33 connection with drug crimes. ~~the~~ The use or occupation of this building ~~for human~~  
 34 ~~habitation or for commercial, industrial, or business use is prohibited and unlawful.~~;

35 (5) That, if the owner fails to comply with any order to remove or demolish the dwelling,  
 36 building, or structure, the public officer may cause such dwelling, building, or structure  
 37 to be removed or demolished; provided, however, that the duties of the public officer, set

1 forth in paragraph (4) of this Code section and this paragraph, shall not be exercised until  
 2 the governing body shall have by ordinance ordered the public officer to proceed to  
 3 effectuate the purpose of Code Sections 41-2-7, 41-2-8, this Code section, and Code  
 4 Sections 41-2-10 through 41-2-17 with respect to the particular property or properties  
 5 which the public officer shall have found to be unfit for human habitation or unfit for its  
 6 current commercial, industrial, or business use, which property or properties shall be  
 7 described in the ordinance;

8 (6) If the public officer has the structure demolished, reasonable effort shall be made to  
 9 salvage reusable materials for credit against the cost of demolition. The proceeds of any  
 10 moneys received from the sale of salvaged materials shall be used or applied against the  
 11 cost of the demolition and removal of the structure, and proper records shall be kept  
 12 showing application of sales proceeds. Any such sale of salvaged materials may be made  
 13 without the necessity of public advertisement and bid. The public officer and governing  
 14 authority are relieved of any and all liability resulting from or occasioned by the sale of  
 15 any such salvaged materials, including, without limitation, defects in such salvaged  
 16 materials; That the amount of the cost of such vacating and closing or removal or  
 17 demolition by the public officer shall be a lien against the real property upon which such  
 18 cost was incurred. Said lien shall attach to the real property upon the payment of all costs  
 19 of demolition by the county or municipality and the filing of an itemized statement of the  
 20 total sum of said costs by the public officer in the office of the clerk of the governing  
 21 body of the county or municipality on a lien docket maintained by said clerk for such  
 22 purposes. If the dwelling, building, or structure is removed or demolished by the public  
 23 officer he shall sell the materials of such dwellings, buildings, or structures and shall  
 24 credit the proceeds of such sale against the cost of the removal or demolition and any  
 25 balance remaining shall be deposited in the superior court by the public officer, shall be  
 26 secured in such manner as may be directed by such court, and shall be disbursed by such  
 27 court to the persons found to be entitled thereto by final order or decree of such court.  
 28 Nothing in this Code section shall be construed to impair or limit in any way the power  
 29 of the county or municipality to define and declare nuisances and to cause their removal  
 30 or abatement by summary proceedings or otherwise;

31 (7) That the amount of the cost of demolition, including all court costs, appraisal fees,  
 32 administrative costs incurred by the tax commissioner, and all other costs necessarily  
 33 associated with the abatement action, including restoration to grade of the real property  
 34 after demolition, shall be a lien against the real property upon which such cost was  
 35 incurred. Counties and municipal corporations may enforce the collection of any amount  
 36 due on such lien for removal or demolition of dwellings, buildings, or structures only in  
 37 the following manner:

1 ~~(A) The owner or parties at interest shall be allowed to satisfy the amount due on such~~  
 2 ~~lien by paying to the county or municipal corporation, within 30 days after the~~  
 3 ~~perfection of said lien, a sum of money equal to 25 percent of the total amount due and~~  
 4 ~~by further paying to said county or municipal corporation the remaining balance due~~  
 5 ~~on such lien, together with interest at the rate of 7 percent per annum, in three equal~~  
 6 ~~annual payments, each of which shall become due and payable on the anniversary date~~  
 7 ~~of the initial payment made as hereinabove prescribed;~~

8 ~~(B) Should the property upon which such lien is perfected be sold, transferred, or~~  
 9 ~~conveyed by the owner or parties at interest at any time prior to the termination of the~~  
 10 ~~said three-year period, then the entire balance due on such lien shall be due and payable~~  
 11 ~~to the county or municipal corporation; and~~

12 ~~(C) Should the amount due on such lien, or any portion thereof, be unpaid after the~~  
 13 ~~passage of said three-year period, or upon the occurrence of the contingency provided~~  
 14 ~~for in subparagraph (B) of this paragraph, the county or municipal corporation may~~  
 15 ~~enforce the collection of any amount due on such lien for alteration, repair, removal,~~  
 16 ~~or demolition of dwellings, buildings, or structures in the same manner as provided in~~  
 17 ~~Code Section 48-5-358 and other applicable state statutes. This procedure shall be~~  
 18 ~~subject to the right of redemption by any person having any right, title, or interest in or~~  
 19 ~~lien upon said property, all as provided by Article 3 of Chapter 4 of Title 48.~~

20 (b)(1) The lien provided for in paragraph (7) of subsection (a) of this Code section shall  
 21 attach to the real property upon the filing of a certified copy of the order requiring repair,  
 22 closure, or demolition in the office of the clerk of superior court in the county where the  
 23 real property is located and shall relate back to the date of the filing of the lis pendens  
 24 notice required under subsection (g) of Code Section 41-2-12. The clerk of superior court  
 25 shall record and index such certified copy of the order in the deed records of the county  
 26 and enter the lien on the general execution docket. The lien shall be superior to all other  
 27 liens on the property, except liens for taxes to which the lien shall be inferior, and shall  
 28 continue in force until paid. After filing a certified copy of the order with the clerk of  
 29 superior court, the public officer shall forward a copy of the order and a final statement  
 30 of costs to the county tax commissioner. It shall be the duty of the county tax  
 31 commissioner to collect the amount of the lien in conjunction with the collection of ad  
 32 valorem taxes on the property and to collect the amount of the lien as if it were a real  
 33 property ad valorem tax, using all methods available for collecting real property ad  
 34 valorem taxes, including specifically Chapter 4 of Title 48; provided, however, that the  
 35 limitation of Code Section 48-4-78 which requires 12 months of delinquency before  
 36 commencing a tax foreclosure shall not apply. The tax commissioner shall remit the  
 37 amount collected to the governing authority of the county or municipality whose

1 ordinance is being enforced. Thirty days after imposition of the lien, the unpaid lien  
2 amount shall bear interest and penalties in the same amount as applicable to interest and  
3 penalties on unpaid real property ad valorem taxes.

4 (2) Where the remittance is to a municipality, the tax commissioner shall collect and  
5 retain an amount equal to the cost of administering a lien authorized by this chapter  
6 unless such costs are waived by resolution of the county governing authority. Any such  
7 amount collected and retained for administration shall be deposited in the general fund  
8 of the county to pay the cost of administering the lien.

9 (c) The governing authority may waive and release any such lien imposed on historic  
10 property upon the owner of such property entering into a contract with the county,  
11 municipality, or consolidated government agreeing to a timetable for rehabilitation of the  
12 dwelling, building, or structure on the historic property and demonstrating the financial  
13 means to accomplish such rehabilitation. For purposes of this Code section, the term  
14 'historic property' means tangible real property which:

15 (1) Has been listed on the National Register of Historic Places or on the Georgia Register  
16 of Historic Places as provided in Part 1 of Article 3 of Chapter 3 of Title 12 and has been  
17 so certified by the Department of Natural Resources; or

18 (2) Has been certified by a local government as historic property having exceptional  
19 architectural, historic, or cultural significance pursuant to a comprehensive local historic  
20 preservation or landmark ordinance which is of general application within such local  
21 government and has been approved by the state historic preservation officer.

22 (d) Where the abatement action does not commence in the superior court, review of a court  
23 order requiring the repair, alteration, improvement, or demolition of a dwelling, building,  
24 or structure shall be by direct appeal to the superior court.

25 (e) In addition to the procedures and remedies in this chapter, a governing authority may  
26 provide by ordinance that designated public officers may issue citations for violations of  
27 state minimum standard codes, optional building, fire, life safety, and other codes adopted  
28 by ordinance, and conditions creating a public health hazard or general nuisance, and seek  
29 to enforce such citations in a court of competent jurisdiction prior to issuing a complaint  
30 in rem as provided in this Code section.

31 (f) Nothing in this Code section shall be construed to impair or limit in any way the power  
32 of the county or municipality to define and declare nuisances and to cause their removal  
33 or abatement by summary proceedings or otherwise."



1 (c) Nonresidents of this state, whose mailing address is known, shall be served by ~~posting~~  
 2 ~~a copy of such complaint or orders in a conspicuous place on premises affected by the~~  
 3 ~~complaint or orders~~ certified mail or statutory overnight delivery, return receipt requested,  
 4 mailed at least 14 days prior to the date of the hearing. For nonresidents whose mailing  
 5 address is unknown, a notice stating the date, time, and place of the hearing shall be  
 6 published in the newspaper in which the sheriff's advertisements appear in such county  
 7 once a week for two consecutive weeks prior to the hearing. ~~Where the address of such~~  
 8 ~~nonresidents is known, a copy of such complaint or orders shall be mailed to them by~~  
 9 ~~registered or certified mail or statutory overnight delivery.~~

10 (d) In the event either the owner or any party in interest is a minor, an estate, an  
 11 incompetent or an insane person, or person laboring under disabilities, the guardian or other  
 12 personal representative of such person shall be served and if such guardian or personal  
 13 representative resides outside the county ~~or municipality~~ or is a nonresident of this state,  
 14 he or she shall be served as provided for in subsection (c) of this Code section, ~~or this~~  
 15 ~~subsection in such cases. If such minor or insane person or person laboring under~~  
 16 ~~disabilities~~ owner or party in interest has no guardian or personal representative, ~~or in the~~  
 17 ~~event such minor or insane person lives outside the county or municipality or is a~~  
 18 ~~nonresident,~~ service shall be perfected by serving such ~~minor or insane person personally~~  
 19 ~~or by leaving a copy at the place of his residence which shall be sufficient evidence as to~~  
 20 ~~the service of such person or persons; in the case of other persons who live outside of the~~  
 21 ~~county or municipality or are nonresidents, service shall be perfected by serving the judge~~  
 22 ~~of the probate court of the county wherein such property is located~~ at least 30 days prior  
 23 to the date of the hearing ~~who~~ which judge shall stand in the place of and protect the rights  
 24 of such minor, estate, or incompetent ~~or insane~~ person or appoint a guardian ad litem for  
 25 such person.

26 (e) In the event of unknown persons or unborn remaindermen who are likely to have any  
 27 rights in the property or interest or the proceeds thereof, the judge of the probate court of  
 28 the county wherein such property or interest is located shall be personally served at least  
 29 30 days prior to the date of the hearing, and it shall be the duty of the judge of the probate  
 30 court to stand in the place of and protect the rights of such unknown parties or unborn  
 31 remaindermen.

32 (e)(f) In the event the whereabouts of any owner or party in interest is unknown and the  
 33 same cannot be ascertained by the public officer in the exercise of reasonable diligence or  
 34 if any owner or party in interest cannot, after due diligence, be served as provided in this  
 35 Code section, and the public officer shall make an affidavit to that effect, ~~then the service~~  
 36 ~~of such complaint or order upon such persons shall be made in the same~~ and serve by  
 37 publication in the manner as provided in subsection (c) of this Code section, ~~or service may~~

1 ~~be perfected upon any person, firm, or corporation holding itself out as an agent for the~~  
 2 ~~property involved and such publication shall be sufficient proof that service was perfected.~~

3 ~~(f)(g) A notice of lis pendens copy of such complaint or orders shall also be filed in the~~  
 4 ~~proper office or offices for the filing of lis pendens notice~~ office of the clerk of superior  
 5 court in the county in which the dwelling, building, or structure is located at the time of  
 6 filing the complaint in the appropriate court. Such notice and such filing of the complaint  
 7 ~~or orders~~ shall have the same force and effect as other lis pendens notices provided by law.  
 8 ~~Any such complaint or orders or an appropriate lis pendens notice may contain a statement~~  
 9 ~~to the effect that a lien may arise against the described property and that an itemized~~  
 10 ~~statement of such lien is maintained on a lien docket maintained by the clerk of the~~  
 11 ~~governing body of the county or municipality.~~

12 (h) Orders and other filings made subsequent to service of the initial complaint shall be  
 13 served in the manner provided in this Code section on the owner and any party in interest  
 14 who answers the complaint or appears at the hearing. Any party who fails to answer or  
 15 appear at the hearing shall be deemed to have waived all further notice in the proceedings."

#### 16 **SECTION 5.**

17 Said chapter is further amended by striking in its entirety Code Section 41-2-17, relating to  
 18 prior ordinances relating to repair, closing, or demolition of unfit buildings or structures, and  
 19 inserting in lieu thereof a new Code Section 41-2-17 to read as follows:

20 "41-2-17.

21 Ordinances relating to the subject matter of Code Sections 41-2-7 through 41-2-16 and this  
 22 Code section adopted prior to ~~April 1, 1966~~ July 1, 2001, shall have the same force and  
 23 effect on and after said date as ordinances adopted subsequent to and by authority of these  
 24 Code sections."

#### 25 **SECTION 6.**

26 This Act shall become effective on July 1, 2001.

#### 27 **SECTION 7.**

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