

Senate Bill 162

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

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

18 ~~(2)(3)~~ (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.