

House Bill 121

By: Representatives Stancil of the 16th, Scheid of the 17th and Pinholster of the 15th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to housing
2 generally, so as to enact the "Georgia Homeowner Protection Act"; to provide for a short
3 title; to define certain terms; to provide that the requirements of this Act shall not be
4 applicable within the jurisdiction of a county or municipality until adopted by the governing
5 authority of the county or municipality; to prohibit the sale of new homes that are not
6 covered by certain policies of home warranty insurance; to require proof of home warranty
7 insurance coverage prior to the issuance of a building permit for a proposed new home; to
8 provide for the contents of policies of home warranty insurance; to provide for actions for
9 breach of a home warranty insurance policy, including a direct action by the owner against
10 the provider of the home warranty insurance policy; to provide for related matters; to provide
11 for an effective date; to repeal conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to housing generally,
15 is amended by adding at the end thereof a new article, to be designated as Article 7, to read
16 as follows:

17 **"ARTICLE 7**

18 8-3-340.

19 This article shall be known and may be cited as the 'Georgia Homeowner Protection Act.'

20 8-3-341.

21 As used in this article, the term:

22 (1) 'New home' means a self-contained dwelling unit that is newly constructed, detached,
23 and intended for residential occupancy and any appurtenances thereto, including without
24 limitation driveways, landscaping, fences, and storage sheds.

1 (2) 'Owner' means a person who purchases a new home or contracts with a residential
2 builder to construct a new home and includes:

3 (A) A person who purchases a life interest in a new home; and

4 (B) A subsequent purchaser of a new home.

5 (3) 'Owner builder' means a person who builds for personal use on self-owned property,
6 is not engaged in the business of building, and has not constructed a new home within the
7 past 18 months.

8 (4) 'Person' means any individual, firm, corporation, partnership, association, or other
9 legal entity.

10 (5) 'Residential builder' means a person who engages in, arranges for, or manages all or
11 substantially all of the construction of a new home.

12 (6) 'Vendor' means a person who sells that person's ownership in a new home that is not
13 used as that person's personal residence.

14 8-3-342.

15 The requirements of this article shall not be applicable within the jurisdiction of a county
16 or municipality of this state until adopted by ordinance or resolution of the governing
17 authority of the county or municipality.

18 8-3-343.

19 (a) No person, other than an owner builder, may offer for sale or sell a new home unless
20 the home is covered by a policy of home warranty insurance in favor of the owner that
21 meets the requirements of Code Section 8-3-344 and is provided by a person who is
22 authorized to transact insurance in this state pursuant to Chapter 3 of Title 33.

23 (b) No county or municipality may issue a building permit for a proposed new home
24 unless the applicant provides evidence, in a form satisfactory to the county or municipality,
25 that:

26 (1) The proposed new home will be covered by a policy of home warranty insurance
27 that meets the requirements of Code Section 8-3-344 and is provided by a person who is
28 authorized to transact insurance in this state pursuant to Chapter 3 of Title 33; or

29 (2) The proposed new home is not subject to the requirements of this article.

30 8-3-344.

31 (a) Any policy of home warranty insurance issued pursuant to this article must provide
32 coverage in favor of the owner for breach of the following warranties provided by a
33 residential builder and vendor of a new home to the owner of a new home, to the extent of
34 labor, materials, and design supplied, used, or arranged by the residential builder or vendor:

1 (1) The new home is reasonably fit for habitation;

2 (2) The new home has been constructed from materials that are of good quality and
3 reasonably fit for the intended purpose;

4 (3) The new home has been designed and constructed with ordinary competence, skill,
5 and care; and

6 (4) The residential builder and vendor have disposed of all excess materials and refuse
7 from the site of the new home.

8 (b) Any policy of home warranty insurance issued pursuant to this article must:

9 (1) Provide coverage for loss in relation to materials for a period of not less than two
10 years after the commencement date of the policy of home warranty insurance;

11 (2) Provide coverage for loss arising from water penetration for a period of not less than
12 five years after the commencement date of the policy of home warranty insurance;

13 (3) Provide coverage for a loss arising from structural damage for a period of not less
14 than ten years after the commencement date of the policy of home warranty insurance;
15 and

16 (4) Provide that any annual deductible shall be not more than \$500.00.

17 The commencement date of a policy of home warranty insurance is the date on which the
18 new home is substantially complete or the date on which the owner takes possession of the
19 new home, whichever is later.

20 (c)(1) A policy of home warranty insurance issued pursuant to this article shall not
21 contain any term which purports to waive, exclude, limit, or qualify the terms prescribed
22 in subsection (a) or (b) of this Code section or any exclusions from coverage; and any
23 such term or exclusion shall be void and of no effect.

24 (2) Despite any express term in a policy of home warranty insurance issued pursuant to
25 this article, the policy of home warranty insurance shall continue to have effect after
26 completion of the sale and transfer of title to the first owner and any subsequent owner.

27 (3) A policy of home warranty insurance is enforceable even if there is no privity of
28 contract between the owner and the provider of the policy of home warranty insurance.

29 (d) Nothing in this article shall be construed to affect a manufacturer's warranty on
30 separately manufactured components supplied with or forming a part of a new home,
31 including without limitation appliances, windows, floor coverings, and heating, ventilation,
32 and air-conditioning equipment, or to prevent a person from providing a policy of home
33 warranty insurance that includes terms that are more protective of an owner than those
34 provided for in this Code section.

35 (e) Nothing in this article shall be construed to exclude, qualify, or limit any other term,
36 express or implied, or relieve any person of liability to which that person would otherwise
37 be subject.

1 8-3-345.

2 (a) An action for breach of a policy of home warranty insurance issued pursuant to this
3 article must be commenced within six years after the breach occurs. An owner may bring
4 an action for breach of a policy of home warranty insurance directly against the provider
5 of such policy and shall recover reasonable costs and attorneys fees if the owner is the
6 prevailing party in such an action.

7 (b)(1) The protections provided in Code Section 8-3-344 are for the benefit of whoever
8 may be the owner of the new home from time to time until expiration of the period within
9 which an action may be brought for breach of those protections, and such owner is
10 deemed to have given good consideration for the benefit of those protections and to be
11 the only person entitled to recover damages for their breach.

12 (2) Notwithstanding any provision of paragraph (1) of this subsection to the contrary, if
13 the ownership of the new home changes during the course of an action for breach of any
14 of the protections provided for in Code Section 8-3-344, the new owner is entitled to be
15 substituted as plaintiff and to enforce all rights that the former owner could have
16 enforced."

17 **SECTION 2.**

18 This Act shall become effective on January 1, 2002.

19 **SECTION 3.**

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